

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 5%;">STATE OF TEXAS,</td><td style="width: 5%;">)</td></tr> <tr><td>Plaintiff,</td><td>)</td></tr> <tr><td>V.</td><td>)</td></tr> <tr><td>ERIC H. 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Kofron, CSR in and for the State of Texas, reported by machine shorthand, at the offices of Dechert, 300 West 6th Street, Austin, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.</p>	STATE OF TEXAS,)	Plaintiff,)	V.)	ERIC H. HOLDER, JR.,)	in his official capacity)	as Attorney General of)	the United States,)	Defendant.)	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<p style="text-align: center;">2</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>1 FOR THE PLAINTIFF: 2 Mr. Reynolds Brissenden 3 OFFICE OF THE ATTORNEY GENERAL OF TEXAS 4 P.O. Box 12548 Austin, Texas 78711-2548</p> <p>5 FOR THE DEFENDANT: 6 Ms. Elizabeth Westfall 7 Ms. Michelle McLeod U.S. DEPARTMENT OF JUSTICE 8 950 Pennsylvania Avenue NW NWB Room 7203 9 Washington, DC 20530</p> <p>10 FOR THE DEFENDANT-INTERVENORS, TEXAS 11 STATE CONFERENCE OF NAACP BRANCHES AND 12 MEXICAN AMERICAN LEGAL CAUCUS: 13 Mr. Ian Vandewalker, via phone Ms. Myrna Perez, via phone 14 THE BRENNAN CENTER FOR JUSTICE AT NYU LAW SCHOOL 15 161 Avenue of the Americas, Floor 12 New York, New York 10013-1205</p> <p>16 Also Present: 17 Ms. Lindsey Stencil Mr. Nick Riley, via phone</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">RICHARD PARSONS, having been first duly sworn, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p style="text-align: center;">BY MR. VANDEWALKER:</p> <p>Q. Good afternoon, Mr. Parsons. My name is Ian Vandewalker. I represent the defendant-intervenors in this matter, the Texas State Conference of NAACP and Mexican American Legislative Caucus.</p> <p>Thank you for coming to appear for this deposition today. And I also thank you for your patience in advance. With the phone setup, I wasn't able to make it there for the deposition. I apologize for that, but hopefully we won't have any communications problems on the phone. Can you hear me all right?</p> <p>A. Yes, I can.</p> <p>Q. Okay. Thank you. Could you just state and spell your full name for the record.</p> <p>A. Richard Daniel Parsons, R-i-c-h-a-r-d, Daniel, D-a-n-i-e-l, Parsons, P-a-r-s-o-n-s.</p> <p>Q. Thank you. And are you represented by counsel today?</p> <p>A. Yes.</p> <p>Q. And who is your attorney?</p> <p>A. Reynolds -- what was your last name?</p> <p>MR. BRISSENDEN: Brissenden.</p> <p>A. Reynolds Brissenden.</p>																																																																																																																																																						

<p style="text-align: center;">5</p> <p>1 Q. And who is your current employer?</p> <p>2 A. State of Texas.</p> <p>3 Q. Have you ever been deposed before?</p> <p>4 A. No.</p> <p>5 Q. Okay. I am going to go through some sort of ground</p> <p>6 rules, basic instructions to help things go smoothly today. You</p> <p>7 are under oath and are required to answer all questions</p> <p>8 truthfully and to the best of your knowledge; do you understand</p> <p>9 that?</p> <p>10 A. Yes.</p> <p>11 Q. If you don't fully hear a question, please ask me to</p> <p>12 repeat it. Will you do that?</p> <p>13 A. Yes.</p> <p>14 Q. And if you don't understand a question, please tell me</p> <p>15 so. Will you do that?</p> <p>16 A. Yes.</p> <p>17 Q. Thank you. And also, especially because there's some</p> <p>18 unnaturalness to the conversation because I'm on the phone,</p> <p>19 please wait for me to complete my question before you start your</p> <p>20 answer. Will you do that?</p> <p>21 A. Yes.</p> <p>22 Q. And also please answer all questions verbally so that</p> <p>23 the court reporter can get it down rather than with gestures.</p> <p>24 Will you do that?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">7</p> <p>1 Q. Okay. You currently work for the Texas Secretary of</p> <p>2 State's office?</p> <p>3 A. Yes.</p> <p>4 Q. And how long have you worked for the Secretary of</p> <p>5 State's office?</p> <p>6 A. Since mid September of 2011. I don't know the exact</p> <p>7 date that I began employment there.</p> <p>8 Q. That's fine. Thank you.</p> <p>9 A. Excuse me. Since mid, late September. I don't</p> <p>10 remember the exact date.</p> <p>11 Q. Okay. What is your official title at the Secretary of</p> <p>12 State's office?</p> <p>13 A. Director of Communications.</p> <p>14 Q. And is that the position that you've held since</p> <p>15 September of 2011?</p> <p>16 A. Yes.</p> <p>17 Q. What did you do for a living prior to working for the</p> <p>18 Secretary of State's office?</p> <p>19 A. Prior to joining the Secretary of State's office I</p> <p>20 worked for a private communications agency in Austin.</p> <p>21 Q. And as Director of Communications for the Secretary of</p> <p>22 State's office, what are your official duties?</p> <p>23 A. Media relations, speech preparation, press release</p> <p>24 writing, anything that generally has to do with external</p> <p>25 communications and some internal communications.</p>
<p style="text-align: center;">6</p> <p>1 Q. Are you taking any medication today that would prevent</p> <p>2 you from giving true and accurate answers to my questions?</p> <p>3 A. No.</p> <p>4 Q. Is there any other circumstance you're aware of that</p> <p>5 would prevent you from giving true and accurate answers to my</p> <p>6 questions today?</p> <p>7 A. No.</p> <p>8 Q. Did you do anything to prepare for today's deposition?</p> <p>9 A. Yes.</p> <p>10 Q. What did you do?</p> <p>11 A. Looked back at some of the documents that I provided</p> <p>12 as a result of this notice of deposition and got some updated</p> <p>13 information from my contact at the vendor for the voter</p> <p>14 education program.</p> <p>15 Q. And what's the name of that vendor?</p> <p>16 A. Burson-Marsteller.</p> <p>17 Q. Thank you. Did you talk to anybody else in</p> <p>18 preparation for today's deposition?</p> <p>19 A. I spoke with the attorneys from the Attorney General's</p> <p>20 office.</p> <p>21 Q. Okay. And do you know which attorney it was?</p> <p>22 A. Yes.</p> <p>23 Q. And who were they?</p> <p>24 A. Reynolds, Brooke. What's her last name? Paup?</p> <p>25 Brooke Paup and Jay Dyer.</p>	<p style="text-align: center;">8</p> <p>1 Q. Do you typically oversee the Secretary of State's</p> <p>2 voter education initiatives?</p> <p>3 A. I do -- I oversee the current one.</p> <p>4 Q. Right. Okay. Thank you. And you oversee the</p> <p>5 Secretary of State's efforts to train poll workers?</p> <p>6 A. I'm sorry. Could you repeat that.</p> <p>7 Q. Do you oversee the Secretary of State's efforts to</p> <p>8 train poll workers?</p> <p>9 A. No.</p> <p>10 Q. Okay. Does the Secretary of State's office have any</p> <p>11 plans to carry out, as a general matter, any statewide voter</p> <p>12 education initiatives in 2012?</p> <p>13 A. Yes.</p> <p>14 Q. Does the Secretary of State's office -- could you,</p> <p>15 just as a general matter, tell me what is the purpose of the</p> <p>16 voter education initiative in 2012?</p> <p>17 MR. BRISSENDEN: Objection, vague.</p> <p>18 MR. VANDEWALKER: You can answer, if you</p> <p>19 understand the question.</p> <p>20 A. To provide resources and information for voters and</p> <p>21 voting age population to understand the voter registration</p> <p>22 process, the election process and how to participate in that</p> <p>23 process.</p> <p>24 Q. Is the Make Your Mark on Texas voter education plan</p> <p>25 the voter education initiative for the Secretary of State for</p>

<p style="text-align: center;">9</p> <p>1 this year?</p> <p>2 A. Yes.</p> <p>3 Q. Are there any other statewide voter education</p> <p>4 initiatives planned for 2012?</p> <p>5 A. Not formally in the, I guess, scope of the Make Your</p> <p>6 Mark on Texas program. But we are constantly answering</p> <p>7 questions and providing whatever resources we can to anyone who</p> <p>8 needs them.</p> <p>9 Q. And just to clarify, you mean questions from voters?</p> <p>10 A. Voters, media, interest groups.</p> <p>11 Q. Did the Secretary of State hire a vendor to design the</p> <p>12 Make Your Mark on Texas plan?</p> <p>13 A. Yes.</p> <p>14 Q. And is that Burson-Marsteller that you mentioned</p> <p>15 earlier, is that the vendor in question?</p> <p>16 A. Yes.</p> <p>17 Q. How did the Secretary of State's office select</p> <p>18 Burson-Marsteller to design the voter education plan?</p> <p>19 A. An RFP was let under whatever rules and regulations</p> <p>20 are required by state procurement process. Several companies</p> <p>21 responded, submitted proposals. Those proposals were scored by</p> <p>22 an internal team. Then the three highest scoring companies were</p> <p>23 invited in for oral presentations. Then following the oral</p> <p>24 presentations the team discussed the presentations and voted on</p> <p>25 the vendor to select.</p>	<p style="text-align: center;">11</p> <p>1 No. 12111 in part responds to that by asking for a vendor to</p> <p>2 help with educating voters about photo ID requirements?</p> <p>3 A. Yes.</p> <p>4 Q. And are you aware of any other RFPs, other than</p> <p>5 No. 12111, that would respond to the requirements to voters</p> <p>6 about photo ID requirements?</p> <p>7 A. No.</p> <p>8 Q. Who drafted RFP No. 12111?</p> <p>9 A. I don't know.</p> <p>10 Q. Do you know when it was drafted?</p> <p>11 A. Generally, last year.</p> <p>12 Q. And do you know when last year?</p> <p>13 A. Not specifically.</p> <p>14 Q. Do you know when it was issued?</p> <p>15 A. I don't know the date, but the general time frame.</p> <p>16 Q. And when was it issued?</p> <p>17 A. I believe it was issued in October 2011.</p> <p>18 Q. And how many voter education plan proposals did the</p> <p>19 Secretary of State's office receive in response to this RFP?</p> <p>20 A. As I recall, it was fewer than ten.</p> <p>21 Q. Were you a part of the process to select the vendor</p> <p>22 from those proposals?</p> <p>23 A. Yes.</p> <p>24 Q. Do you -- did any of those proposals specifically</p> <p>25 include plans designed to target African American communities?</p>
<p style="text-align: center;">10</p> <p>1 MR. VANDEWALKER: Okay. And if I could ask</p> <p>2 Ms. Stelcen to find the exhibit that's titled Request For</p> <p>3 Proposal No. 12111.</p> <p>4 MS. STELCEN: I'm going to hand it to the court</p> <p>5 reporter to mark as Parsons Exhibit 1.</p> <p>6 MR. VANDEWALKER: Thank you.</p> <p>7 (Exhibit No. 1 marked)</p> <p>8 MS. STELCEN: Okay.</p> <p>9 Q. Okay. Mr. Parsons, is this the RFP that you were</p> <p>10 referring to just now?</p> <p>11 A. It looks like it.</p> <p>12 Q. If you want to take a second to read through it to</p> <p>13 make sure that you have identified it, that's okay.</p> <p>14 A. Yes. This looks like it, yeah. Yes.</p> <p>15 Q. To your knowledge, did the Secretary of State issue</p> <p>16 any other RFPs other than No. 12111 to solicit proposals for</p> <p>17 voter education plans related to S.B. 14?</p> <p>18 A. Not since this one.</p> <p>19 Q. Do you know if there were any before this one?</p> <p>20 A. Can you clarify that.</p> <p>21 Q. Is it your understanding that S.B. 14 requires the</p> <p>22 Secretary of State to educate voters about photo ID requirements</p> <p>23 for voting?</p> <p>24 A. Yes.</p> <p>25 Q. And is it your understanding that request -- RFP</p>	<p style="text-align: center;">12</p> <p>1 A. Pardon me?</p> <p>2 Q. Did any of those proposals specifically include plans</p> <p>3 designed to target African American communities?</p> <p>4 A. I don't remember the specifics of the plans that we</p> <p>5 received.</p> <p>6 Q. Do you remember if any of them included plans</p> <p>7 specifically designed to -- strike that.</p> <p>8 Were there rating or selection criteria used to</p> <p>9 differentiate the proposals from each other?</p> <p>10 A. Yes.</p> <p>11 Q. And what were those criteria?</p> <p>12 A. There were several. I don't recall them section by</p> <p>13 section.</p> <p>14 Q. Do you remember any of them?</p> <p>15 A. No.</p> <p>16 Q. Do you recall if those criteria involve treating as a</p> <p>17 positive whether the plan targeted African American voters?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you recall whether those criteria treated as a</p> <p>20 positive including plans to target Latino voters?</p> <p>21 A. I don't recall.</p> <p>22 Q. Who else was on the team that selected the vendor for</p> <p>23 this RFP?</p> <p>24 A. Jordy Keith, who at the time was Deputy Communications</p> <p>25 Director; John Sepehri, who at the time was general counsel for</p>

<p style="text-align: center;">13</p> <p>1 the Secretary of State's office; and Louri O'Leary, who was and 2 is currently administration in the Elections division; and 3 Leticia Salazar.</p> <p>4 Q. Thank you. And when was the decision made to select 5 Burson-Marsteller?</p> <p>6 A. I believe it was made in December.</p> <p>7 Q. And why did your office select Burson-Marsteller as 8 the vendor?</p> <p>9 A. I can only speak to why they scored -- or why I 10 personally felt they were the best company.</p> <p>11 Q. Okay. Why did you think they were the best company?</p> <p>12 A. I thought their creative was good. I thought they 13 presented the most flexibility with regard to implementing -- 14 developing and implementing an education program, whether it was 15 focused on -- whether Senate Bill 14 got precleared or whether 16 it didn't. And they had done this -- they had experience with 17 similar voter education programs in Texas and at least a couple 18 of other states that I don't recall what those states were.</p> <p>19 Q. And how did they show the flexibility that you 20 mentioned?</p> <p>21 A. Their campaign -- in my estimation, their campaign 22 could easily be implemented to educate voters generally and 23 specifically on any new photo identification requirements in -- 24 as required by Senate Bill 14. And if -- at the time if Senate 25 Bill 14 did not get preclearance could be shifted to a general</p>	<p style="text-align: center;">15</p> <p>1 but I don't recall the specifics of the discussion.</p> <p>2 Q. Do you recall any of the context of that discussion?</p> <p>3 Did they mention what client that kind of work might have been 4 done for?</p> <p>5 A. I don't recall the specifics.</p> <p>6 Q. Do you recall them communicating that they had 7 extensive experience in that area?</p> <p>8 A. No, I don't recall that.</p> <p>9 Q. How much money does the Secretary of State's office 10 plan to spend on the Make Your Mark on Texas plan?</p> <p>11 A. As the RFP lays out, proposers should assume a total 12 budget of no more than \$3 million.</p> <p>13 Q. Do you know if that, in fact, is the budget for the 14 Make Your Mark on Texas plan?</p> <p>15 A. I would direct you again to the language in the RFP, 16 that the proposer should assume a budget of no more than 17 \$3 million.</p> <p>18 Q. So that says what the parameters of the RFP is. What 19 I'm trying to ask is what is the Secretary of State's actual 20 budgeting decision about the Make Your Mark on Texas plan? Do 21 you know if \$3 million is, in fact, what's budgeted for the Make 22 Your Mark on Texas plan?</p> <p>23 A. I know that it's consistent with what's in the RFP.</p> <p>24 MR. VANDEWALKER: Okay. If I could again have 25 Ms. Stelcen's help to introduce Exhibit Bates No. Texas 298674.</p>
<p style="text-align: center;">14</p> <p>1 voter education program very easily.</p> <p>2 Q. And how would they do that shifting? What would the 3 -- how did their proposal prove to you that they could do that 4 kind of shifting?</p> <p>5 A. Their concepts could be used in either informing on 6 the regulation or requirements of Senate Bill 14 or they could 7 be used in a general voter education engagement message.</p> <p>8 Q. Did any legislators encourage anyone in the Secretary 9 of State's office to select Burson-Marsteller?</p> <p>10 A. No, none that I'm aware of.</p> <p>11 Q. Did anyone from the governor's office encourage your 12 office to select Burson-Marsteller?</p> <p>13 A. No, none that I'm aware of.</p> <p>14 Q. Did anyone in the Lt. Governor's office encourage your 15 office to select Burson-Marsteller?</p> <p>16 A. No, none that I'm aware of.</p> <p>17 Q. To your knowledge, does Burson-Marsteller have any 18 experience targeting non-white or non-Anglo communities of 19 voters?</p> <p>20 MR. BRISSENDEN: Objection, vague.</p> <p>21 A. Yeah. Can you be more specific or re-ask.</p> <p>22 Q. To your knowledge, has Burson-Marsteller engaged in 23 public education campaigns that are targeted to non-white or 24 non-Anglo communities in the past?</p> <p>25 A. As I recall, there was discussion of that with them,</p>	<p style="text-align: center;">16</p> <p>1 Document has at the top Secretary of State/State of Texas then a 2 code and Account Tracking through March 31st 2012.</p> <p>3 MS. STELCEN: I'm going to have the court 4 reporter mark this as Parsons Exhibit 2. (Exhibit No. 2 marked)</p> <p>5 MS. STELCEN: And it's been placed in front of 6 Mr. Parsons.</p> <p>7 MR. VANDEWALKER: Thank you.</p> <p>8 Q. Mr. Parsons, are you familiar with this document?</p> <p>9 A. Yep. Yes. Sorry.</p> <p>10 Q. Thank you. And what is it?</p> <p>11 A. It's a statement of account tracking.</p> <p>12 Q. So if I could direct your attention to the small box 13 on the top left. It says there "Budget" and then next to the 14 budget entry it says 3 million. Do you know what that refers 15 to?</p> <p>16 A. The budget for the Make Your Mark program.</p> <p>17 Q. Okay. And -- so I'm -- just to get the lingo down so 18 we can refer to this later, would you call this an account 19 tracking document?</p> <p>20 A. That's what it says it is at the top.</p> <p>21 Q. Okay. And is it your understanding that this document 22 shows a total amount expended as of a certain date?</p> <p>23 A. That's correct.</p> <p>24 Q. And what is that date?</p>

<p style="text-align: center;">17</p> <p>1 A. March 31st, 2012.</p> <p>2 Q. Okay. And how much has been expended as of March</p> <p>3 31st, 2012?</p> <p>4 A. According to this document, just under \$1.2 million.</p> <p>5 Q. Okay. And that leaves just obviously, according to</p> <p>6 math and the document, about \$1.8 million out of the \$3 million.</p> <p>7 Is that correct?</p> <p>8 A. Yes.</p> <p>9 MR. VANDEWALKER: Okay. Thank you. If we could</p> <p>10 turn to another exhibit. It begins with Bates Stamp Texas</p> <p>11 298635.</p> <p>12 MS. STELCEN: Okay. I'm going to have the court</p> <p>13 reporter mark it as Parsons Exhibit 3.</p> <p>14 MR. VANDEWALKER: Thank you.</p> <p>15 (Exhibit No. 3 marked)</p> <p>16 MS. STELCEN: And Exhibit 3 has been placed in</p> <p>17 front of the witness.</p> <p>18 Q. So Mr. Parsons, are you familiar with this document?</p> <p>19 A. Yes.</p> <p>20 Q. And could you tell me what it is?</p> <p>21 A. It's an invoice from Burson-Marsteller.</p> <p>22 Q. And what date is the invoice?</p> <p>23 A. February 15th.</p> <p>24 Q. And what is the total due on the invoice?</p> <p>25 A. \$40,065.</p>	<p style="text-align: center;">19</p> <p>1 A. Well, it would appear that the invoice is reflected in</p> <p>2 the tracking document, now that I've had a chance to look at it.</p> <p>3 Q. Okay. And how do you know the invoice is reflected in</p> <p>4 the tracking document?</p> <p>5 A. I didn't say I knew. I said it would appear.</p> <p>6 Q. What makes it appear that the invoice is reflected in</p> <p>7 the tracking document?</p> <p>8 A. The total amount on the front of the invoice is in the</p> <p>9 column under January 12th.</p> <p>10 Q. And why would an invoice dated February 15th appear</p> <p>11 under a column marked January 12th?</p> <p>12 A. I don't know.</p> <p>13 Q. Is this, the account tracking document, the kind of</p> <p>14 thing that you see in your day-to-day duties at the Secretary of</p> <p>15 State's office?</p> <p>16 A. Not day to day.</p> <p>17 Q. Do you ever see something like this at the Secretary of State's office?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know how the account tracking document was</p> <p>20 generated?</p> <p>21 A. It was generated by Burson-Marsteller.</p> <p>22 Q. Do you know how this document came to be produced to</p> <p>23 the attorneys for the State of Texas and ultimately to us?</p> <p>24 A. I believe I turned it over in response to the Notice</p>
<p style="text-align: center;">18</p> <p>1 Q. Is that amount reflected in the account tracking</p> <p>2 document that we've discussed just now?</p> <p>3 A. I don't know.</p> <p>4 Q. If you were going to find out, what would you do?</p> <p>5 A. I would call Burson and ask them.</p> <p>6 Q. What would you ask them?</p> <p>7 A. The question you just asked, I guess.</p> <p>8 Q. Okay. I understand the account tracking document to</p> <p>9 be a document internal to the Secretary of State's office,</p> <p>10 keeping track of expenditures. So I'm not sure how</p> <p>11 Burson-Marsteller would know what is or is not included in that</p> <p>12 document.</p> <p>13 MR. BRISSENDEN: Objection, argumentative.</p> <p>14 MR. VANDEWALKER: You can answer.</p> <p>15 MR. BRISSENDEN: There's no question pending.</p> <p>16 MR. VANDEWALKER: There is a question pending. I</p> <p>17 would ask the court reporter to read it back, please.</p> <p>18 (Requested portion read by reporter)</p> <p>19 MR. VANDEWALKER: I apologize. You're right.</p> <p>20 There is not a question pending.</p> <p>21 Q. How would Burson-Marsteller know what is or is not</p> <p>22 included in the account tracking document which is an internal</p> <p>23 document of the Secretary of State?</p> <p>24 MR. BRISSENDEN: Objection, speculation.</p> <p>25 If you know, you may answer.</p>	<p style="text-align: center;">20</p> <p>1 of Deposition.</p> <p>2 Q. Okay. And can you say -- where did it ultimately come</p> <p>3 from? Where did you get it before that?</p> <p>4 A. Burson-Marsteller.</p> <p>5 MR. VANDEWALKER: Okay. If I could move on to</p> <p>6 another exhibit. This one begins at Bates Stamp 298642.</p> <p>7 MS. STELCEN: Okay. I'm going to have the court</p> <p>8 reporter mark this as Parsons Exhibit 4.</p> <p>9 (Exhibit No. 4 marked)</p> <p>10 MS. STELCEN: And the exhibit has been placed in</p> <p>11 front of Mr. Parsons.</p> <p>12 MR. VANDEWALKER: Thank you.</p> <p>13 Q. Mr. Parsons, are you familiar with this document?</p> <p>14 A. Yes.</p> <p>15 Q. And what is it?</p> <p>16 A. An invoice from Burson-Marsteller.</p> <p>17 Q. And what's the date on the invoice?</p> <p>18 A. March 16th.</p> <p>19 Q. And what is the total amount due?</p> <p>20 A. \$895,268.94.</p> <p>21 Q. Thank you. And is this -- is that total amount due</p> <p>22 reflected in the account tracking document?</p> <p>23 A. Yes.</p> <p>24 Q. And what leads you to say -- how do you know that it</p> <p>25 is? I'm sorry.</p>

<p style="text-align: center;">29</p> <p>1 A. It means creating media opportunities to promote the 2 message, whether it's Senate Bill 14 or some other initiative. 3 It means answering media questions as they come into our office.</p> <p>4 Q. And how much is budgeted for media engagement?</p> <p>5 A. It's our day-to-day -- it's part of my day-to-day 6 duties.</p> <p>7 Excuse me. I have a question. Are you asking within 8 the Make Your Mark on Texas program or outside of the Make Your 9 Mark on Texas program? You didn't clarify.</p> <p>10 Q. Sure. I am trying to understand -- you mentioned that 11 several things would be done outside of the Make Your Mark on 12 Texas plan to inform voters about the photo ID requirement, and 13 I want to understand what those things are.</p> <p>14 A. Okay. Yeah.</p> <p>15 Q. So I think we're on the same page. The first thing 16 you mentioned was media engagement. And the next thing you 17 mentioned was op eds. What activity specifically does that 18 involve?</p> <p>19 A. Writing opinion pieces to place in newspapers and 20 publications around the state with information explaining 21 whatever we need to explain to voters.</p> <p>22 Q. And what media outlets will those op eds appear in?</p> <p>23 A. Whichever ones we ask to run it and who choose to run 24 it.</p> <p>25 Q. And how much is budgeted for this activity of writing</p>	<p style="text-align: center;">31</p> <p>1 Q. And have you consulted with anyone in the Elections 2 division about these efforts to inform voters that are outside 3 of the Make Your Mark on Texas plan?</p> <p>4 A. Not sure I understand your question.</p> <p>5 Q. So we're talking about the things that your office 6 might do that are separate from the Make Your Mark on Texas plan 7 to educate voters about photo ID requirements. Have you 8 coordinated with the Elections division on those activities?</p> <p>9 A. Not at this time.</p> <p>10 Q. Do you plan to?</p> <p>11 A. If it were appropriate.</p> <p>12 Q. Does the Secretary of State's office have a plan to 13 continue educating voters about the photo ID requirement under 14 S.B. 14 if it's precleared after the November 2012 election?</p> <p>15 A. Say that again, please.</p> <p>16 Q. I think that was a confusing question. I apologize 17 and I will try to reformulate it.</p> <p>18 We've talked about the Secretary of State's efforts -- 19 plan to educate voters about the photo ID requirement under 20 S.B. 14 if it's precleared in 2012. What I want to know is will 21 there be any efforts to educate voters about those requirements 22 after 2012?</p> <p>23 A. I'm sorry. You broke up. What was the very last part 24 of your question? You broke up.</p> <p>25 Q. I'm sorry. I want to know about efforts to educate</p>
<p style="text-align: center;">30</p> <p>1 op eds?</p> <p>2 A. Part of my day-to-day activities.</p> <p>3 Q. Will you personally be writing these op eds?</p> <p>4 A. I have written some in the past.</p> <p>5 Q. Do you plan to write op eds about the photo ID 6 requirement under S.B. 14 if it's precleared?</p> <p>7 A. It's certainly possible.</p> <p>8 Q. Okay. The third thing you mentioned is online 9 communications. What does that mean?</p> <p>10 A. We have a -- we have two web sites that we maintain 11 that are resources for voters for all Texans, which we can put 12 information up that's important to voters.</p> <p>13 Q. And so I understand, we're talking about activities 14 outside of the Make Your Mark on Texas plan. So you're saying 15 that there are things that you put up on the Secretary of 16 State's web site that are outside of that plan; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. And what kinds of things will be on your web site 19 having to do with photo ID requirements that are not part of 20 Make Your Mark on Texas?</p> <p>21 A. That would be speculative.</p> <p>22 Q. Do you have a plan to use web site content other than 23 Make Your Mark on Texas to inform voters about photo ID 24 requirements?</p> <p>25 A. Not a specific plan.</p>	<p style="text-align: center;">32</p> <p>1 voters about photo ID requirements after November 2012.</p> <p>2 A. Our current focus is in preparation for the November 3 6, 2012 election.</p> <p>4 Q. So there is not currently a plan to engage in voter 5 education after November 2012?</p> <p>6 A. As I said, our current focus is on voter education 7 prior to the November 6, 2012 general election.</p> <p>8 Q. Does the Make Your Mark on Texas plan include any 9 voter education after November 2012?</p> <p>10 A. I believe the contract runs through January of 2013, 11 but I'm not certain of that.</p> <p>12 Q. Okay. We've talked about the Secretary of State's 13 plan to notify voters that they will need photo ID in order to 14 vote if S.B. 14 is precleared. What else will voters be 15 informed of related to S.B. 14's photo ID requirements?</p> <p>16 A. Say that again, please.</p> <p>17 Q. Sure. What else, other than the fact that they will 18 need photo ID to vote if S.B. 14 is precleared, will voters be 19 informed of related to S.B. 14's photo ID requirements?</p> <p>20 A. We would want to let voters know what forms of ID 21 would be acceptable. We would certainly want to let voters know 22 that the Department of Public Safety is -- would be in a 23 position to issue free election identification cards and how to 24 obtain one of those election identification cards.</p> <p>25 Q. And how will the Secretary of State inform voters</p>

<p style="text-align: center;">33</p> <p>1 about how to get the election identification certificates?</p> <p>2 A. It could be -- we haven't held our planning meetings</p> <p>3 yet for the fall campaign, but those strategies could include</p> <p>4 paid advertising through online broadcasts or print, media</p> <p>5 engagement and online messages on our web sites and social media</p> <p>6 sites.</p> <p>7 Q. And what will the content of those messages be?</p> <p>8 A. Again, we haven't held our planning strategy session</p> <p>9 for the fall campaign yet, but they would generally be what I</p> <p>10 just discussed.</p> <p>11 Q. When do you think those planning sessions will be?</p> <p>12 A. Within the next few weeks.</p> <p>13 Q. Will those -- if S.B. 14 is precleared and -- will the</p> <p>14 efforts to inform voters about where to get photo ID be designed</p> <p>15 to target minority communities?</p> <p>16 MR. BRISSENDEN: Objection, vague.</p> <p>17 A. Can you be more specific.</p> <p>18 Q. Will there be any effort to target voter education</p> <p>19 efforts regarding how to get acceptable forms of ID under</p> <p>20 S.B. 14 to minority communities?</p> <p>21 A. Yes.</p> <p>22 Q. And what will those efforts be?</p> <p>23 A. They would include -- they would possibly include one</p> <p>24 or all of the strategies that we plan to employ, including</p> <p>25 online broadcasts, possibly print paid advertising, proactive</p>	<p style="text-align: center;">35</p> <p>1 A. As I understand it, there are some TV shows, some TV</p> <p>2 stations, some cable channels that have high viewership among</p> <p>3 certain populations, and you can target ads to play on those</p> <p>4 programs, those channels or those stations to run during periods</p> <p>5 of high viewership among whatever targeted population you wish.</p> <p>6 Q. So it's your understanding that Burson-Masteller is</p> <p>7 able -- has information about what shows, what channels</p> <p>8 minorities are more likely to watch; is that correct?</p> <p>9 A. That's correct.</p> <p>10 Q. Have you seen that information?</p> <p>11 A. I've seen some of it.</p> <p>12 Q. And which shows are minorities more likely to watch?</p> <p>13 A. I don't have that in front of me.</p> <p>14 Q. Is that part of the documents that you reviewed and</p> <p>15 provided to your attorneys to produce to us?</p> <p>16 A. I don't have those documents.</p> <p>17 Q. Did you ever have those documents?</p> <p>18 A. I've seen documents that have that, but I've never had</p> <p>19 them in my possession, that I recall.</p> <p>20 Q. How did you see them?</p> <p>21 A. In a meeting.</p> <p>22 Q. In a meeting with whom?</p> <p>23 A. With Burson staff. Maybe with TKO Advertising staff.</p> <p>24 I don't remember who exactly was there.</p> <p>25 Q. But you didn't get a copy of any information about how</p>
<p style="text-align: center;">34</p> <p>1 media engagement and online social media, mobile and online</p> <p>2 social media.</p> <p>3 Q. And how would each of those media be targeted to</p> <p>4 minority communities?</p> <p>5 A. Can you be a little more specific.</p> <p>6 Q. Well, let's take an example. I'm sorry. I don't</p> <p>7 think I remember the entire list. Did you mention television</p> <p>8 advertising?</p> <p>9 A. Yes, sir.</p> <p>10 Q. So how would you ensure, if you created a television</p> <p>11 ad, that it reached minority communities?</p> <p>12 A. All our ads are in Spanish and English. And the</p> <p>13 vendor who places the advertising uses data that is commonly and</p> <p>14 widely used to target specific audiences, to reach specific</p> <p>15 audiences.</p> <p>16 Q. Have you seen that data?</p> <p>17 A. I have seen some of it, but it's been months since</p> <p>18 I've seen it, but I have seen some of it.</p> <p>19 Q. And could you just say, how does that targeting</p> <p>20 happen? I mean, what does that mean in practice for -- again,</p> <p>21 take the example of a television ad?</p> <p>22 A. I'm sorry. What's your question?</p> <p>23 Q. Well, you said the vendor uses data. What I want to</p> <p>24 know is how does data translate into a practical effort to</p> <p>25 target a minority community?</p>	<p style="text-align: center;">36</p> <p>1 advertising would be targeted to minority communities?</p> <p>2 A. I don't have a copy.</p> <p>3 Q. Is that correct?</p> <p>4 A. That's correct. I don't have a copy. It may have</p> <p>5 been a Power Point. I don't recall.</p> <p>6 Q. The information that you saw, was it specific to the</p> <p>7 question of how someone who doesn't have an acceptable form of</p> <p>8 ID under S.B. 14 would go about acquiring that?</p> <p>9 MR. BRISSENDEN: Objection, vague.</p> <p>10 A. Can you repeat that, please.</p> <p>11 Q. The information that you saw about targeting minority</p> <p>12 communities, was it specifically directed at an effort to inform</p> <p>13 voters who don't have an acceptable form of ID under S.B. 14 how</p> <p>14 to get one?</p> <p>15 MR. BRISSENDEN: Same objection.</p> <p>16 A. Can you be more specific.</p> <p>17 Q. Was the information that you saw about targeting</p> <p>18 minority communities specific to any content that would be in</p> <p>19 the advertisement?</p> <p>20 A. As I recall, it was specific to -- it wasn't specific</p> <p>21 to content. It was more on how to best reach specific</p> <p>22 populations.</p> <p>23 Q. Do you recall when this meeting where you saw this</p> <p>24 data was?</p> <p>25 A. As I recall, it was in one of our conference rooms.</p>

<p style="text-align: center;">37</p> <p>1 Q. And do you know what date?</p> <p>2 A. No.</p> <p>3 Q. Do you remember what month?</p> <p>4 A. It was -- I'd be speculating. I can't remember.</p> <p>5 Q. Was it after Burson-Marsteller was hired?</p> <p>6 A. Yes.</p> <p>7 Q. Have any specific web sites designed to inform voters about photo ID requirements under S.B. 14 been designed yet?</p> <p>8 A. Say that again, please.</p> <p>9 Q. Have any web sites designed to inform voters about photo ID requirements under S.B. 14 been designed yet?</p> <p>10 MR. BRISSENDEN: For clarification, are you referring to web sites designed by the Secretary of State's office or from somebody else?</p> <p>11 MR. VANDEWALKER: I'm referring to any web sites. That would include both the Secretary of State's office and anybody else.</p> <p>12 A. No web site has been designed specifically for the purposes of educating on SB-14. We have in place a voter resources web site called VoteTexas.gov and that would be used as a resource to educate voters if Senate Bill 14 is precleared.</p> <p>13 Q. And so how will it be used if S.B. 14 is precleared?</p> <p>14 A. We will put the information on there necessary for voters relevant to any requirements within Senate Bill 14.</p> <p>15 Q. Has that content been drafted yet?</p>	<p style="text-align: center;">39</p> <p>1 about photo ID requirements under S.B. 14 would be effective at informing voters about those requirements?</p> <p>2 A. Not at this time.</p> <p>3 Q. Do you contemplate conducting such testing in the future?</p> <p>4 A. Not at this time.</p> <p>5 Q. Will the content informing voters about photo ID requirements under S.B. 14 also be available in Spanish?</p> <p>6 A. Of course.</p> <p>7 Q. Do you have any plans to test whether the Spanish language will be effective to inform Spanish speaking voters about photo ID requirements under S.B. 14?</p> <p>8 MR. BRISSENDEN: Objection, vague.</p> <p>9 A. Can you re-ask that.</p> <p>10 Q. Do you have any plans to test whether the Spanish language to inform voters about photo ID requirements under S.B. 14 will be effective in communicating with Spanish speaking voters?</p> <p>11 MR. BRISSENDEN: Same objection.</p> <p>12 A. Can you be more specific.</p> <p>13 Q. Do you have any plans to test how effective your web content will be at reaching voters who speak only Spanish?</p> <p>14 A. Not at this time. But all of our Spanish language content goes through approval by Spanish speakers. It's not auto generated by some software program. It's approved by</p>
<p style="text-align: center;">38</p> <p>1 A. No.</p> <p>2 Q. Do you know when it will be?</p> <p>3 A. No. We're not permitted to implement Senate Bill 14.</p> <p>4 Drafting content would be implementing Senate Bill 14.</p> <p>5 Q. Do you know how long it will take to draft that content?</p> <p>6 A. Virtually no time.</p> <p>7 Q. Will you consult with the Elections division on that content before it is posted?</p> <p>8 A. I would expect so.</p> <p>9 Q. Will you consult with lawyers for the Secretary of State's office before that content is posted?</p> <p>10 A. I would expect so.</p> <p>11 Q. And do you know how long that will take?</p> <p>12 A. Virtually no time.</p> <p>13 Q. Do you have any plans to insure that that content is understandable to the average voter?</p> <p>14 A. Say it again, please.</p> <p>15 Q. Do you have any plans to insure that that content -- the content that will inform voters about the photo ID requirement under S.B. 14 is understandable to the average voter?</p> <p>16 MR. BRISSENDEN: Objection, vague.</p> <p>17 A. Can you be more specific, please.</p> <p>18 Q. Do you have any plans to test whether the language</p>	<p style="text-align: center;">40</p> <p>1 Spanish speakers to insure that it's understandable.</p> <p>2 Q. Are the Spanish speakers that you just mentioned people who work in the Elections division?</p> <p>3 A. Yes, I believe so.</p> <p>4 Q. So would you say that they're people who have a greater understanding than the average person about voting issues?</p> <p>5 MR. BRISSENDEN: Objection, vague, calls for speculation.</p> <p>6 A. Can you ask that again, please.</p> <p>7 Q. I'm just trying to understand. The people you have reviewing Spanish language content are not lay people? They're employees who work on elections every day?</p> <p>8 A. Yes, I believe that's correct.</p> <p>9 Q. Do you know what percentage of Latinos have internet access?</p> <p>10 A. I believe in some of the research the Burson -- well, that would be speculation. I don't know.</p> <p>11 Q. Do you know if it's greater or less than the percentage of Anglos who have internet access?</p> <p>12 A. I don't.</p> <p>13 Q. Do you know what percentage of African Americans have internet access?</p> <p>14 A. I don't.</p> <p>15 Q. Do you know if the percentage of African Americans who</p>

<p style="text-align: center;">41</p> <p>1 have internet access is greater or less than the percentage of 2 whites who have internet access?</p> <p>3 A. I don't.</p> <p>4 Q. Do you know what percentage of low-income Texans have 5 internet access?</p> <p>6 A. I don't.</p> <p>7 Q. What's the basis for thinking that the internet will 8 be an effective way to reach African American communities about 9 the photo ID requirements of S.B. 14?</p> <p>10 MR. BRISSENDEN: Objection, vague.</p> <p>11 A. Can you ask that again, please.</p> <p>12 Q. What is the Secretary of State's office's basis for 13 thinking that internet web sites will be an effective way to 14 reach African American communities to inform them about photo ID 15 requirements?</p> <p>16 A. Because of information provided by Burson-Marsteller, 17 both statistically and anecdotally, growth among all 18 populations, including Hispanics and African Americans regarding 19 internet use is growing rapidly, very rapidly.</p> <p>20 Q. It's growing rapidly compared to what?</p> <p>21 A. Compared to what it was in the past.</p> <p>22 Q. Do you know if the internet use relative to white, 23 Anglo people -- I'm sorry. Strike that.</p> <p>24 Do you know if it's -- despite growing rapidly, if 25 it's more or less than white internet usage?</p>	<p style="text-align: center;">43</p> <p>1 A. Targeting the general election.</p> <p>2 Q. I see. And has the primary happened yet?</p> <p>3 A. Yes.</p> <p>4 Q. So we're in the second phase; is that correct?</p> <p>5 A. That's correct.</p> <p>6 Q. Okay. But the strategy has not been decided yet 7 regarding whether or not mailers will be used; is that correct?</p> <p>8 A. That's correct.</p> <p>9 Q. Do you know when the strategy will be finalized?</p> <p>10 MR. BRISSENDEN: Objection, vague.</p> <p>11 A. Can you be more specific, please.</p> <p>12 Q. Well, the strategy isn't final yet, right?</p> <p>13 A. Correct.</p> <p>14 Q. Do you know when it will become final?</p> <p>15 MR. BRISSENDEN: Same objection. Are you 16 referring to the direct mailings or overall?</p> <p>17 Q. I'm sorry. I'm referring to overall, the entire 18 strategy.</p> <p>19 A. I don't have a specific date. We'll be meeting in the 20 next few weeks. We'll have a -- any strategy is subject to 21 change or amendment at any time based on any number of factors. 22 But we would -- right now our working plan is to begin ramping 23 up our voter education effort for November 6th in August, early 24 August.</p> <p>25 Q. And in order to implement strategy by early August,</p>
<p style="text-align: center;">42</p> <p>1 MR. BRISSENDEN: Objection, vague.</p> <p>2 A. Can you restate your question, please.</p> <p>3 Q. So you said that internet usage among both African 4 Americans and Latinos is growing rapidly. Do you know if it is 5 greater or less than white internet usage?</p> <p>6 A. Anecdotally, my understanding is it's less, but I 7 don't know that for a fact.</p> <p>8 Q. Did the data that you said Burson-Marsteller provided 9 you offer any information about disparities among different 10 racial and ethnic groups with respect to internet access?</p> <p>11 A. I don't recall. Anecdotally, I recall that their 12 information showed that Hispanics were the fastest -- among the 13 fastest, if not the fastest growing population for internet use.</p> <p>14 Q. Does the education plan -- does the plan to educate 15 voters about the photo ID requirements under S.B. 14 depend on 16 mailers or direct mailings?</p> <p>17 A. There were no direct mailings in the first phase, and 18 we have not finalized our strategy for the second phase. So I 19 can't say that it will or will not be used.</p> <p>20 Q. Could you just tell me what the date range for the 21 second phase is.</p> <p>22 A. Be more specific, please.</p> <p>23 Q. Okay. I don't know what the second phase means.</p> <p>24 A. Sorry. Second phase means after the primary.</p> <p>25 Q. I see. Thank you.</p>	<p style="text-align: center;">44</p> <p>1 when will you need to make decisions about what those strategies 2 will be?</p> <p>3 A. Next few weeks, month or so.</p> <p>4 Q. Do you know how long it would take to design mailers 5 before they would be ready to send out?</p> <p>6 A. We could have a mailer designed in ten minutes.</p> <p>7 Q. Does that include a mailer that would be designed to 8 inform voters about the photo ID requirement under S.B. 14?</p> <p>9 A. Certainly.</p> <p>10 Q. Would you need to consult with the Elections division 11 about such mail?</p> <p>12 A. I think that would be wise to consult with them.</p> <p>13 Q. Would you need to consult with other lawyers in the 14 Secretary of State's office about a mailer?</p> <p>15 A. I think it would be prudent to.</p> <p>16 Q. And could all of that consultation happen in ten 17 minutes?</p> <p>18 A. Yes.</p> <p>19 Q. And what about translation into Spanish? Could that 20 happen in ten minutes?</p> <p>21 A. Yes.</p> <p>22 Q. And how would you direct such mailers? Where would 23 you get your list of addresses from?</p> <p>24 A. I'm not sure I follow you.</p> <p>25 Q. Well, if you were going to send out a mailing, you</p>

<p style="text-align: center;">45</p> <p>1 would need addresses to send it to; is that correct?</p> <p>2 A. Yes.</p> <p>3 Q. And where would you get a list of addresses?</p> <p>4 A. Who do you contemplate sending these mailers to?</p> <p>5 Q. That what I'm asking you.</p> <p>6 A. You asked about sending mailers. I don't know who</p> <p>7 you're going to send out mailers to. I mean, we can do it.</p> <p>8 You're asking if we can. Yes, we can. We can do it quickly.</p> <p>9 But I don't know who you want us to send them to.</p> <p>10 Q. I'm trying to understand what the Secretary of State's plan is to inform voters about photo ID requirements under S.B. 14 and whether that might include mailers. If it did, who would you send mailers to?</p> <p>11 A. That would be -- under the scenario under which you're describing, I guess that would be registered voters.</p> <p>12 Q. Does the Secretary of State receive any discounts or exemptions on postage that would allow it to avoid paying the full postage costs for mailings?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know who would know?</p> <p>15 A. I don't.</p> <p>16 Q. Okay. Does the plan to educate voters about photo ID requirements under S.B. 14 make use of newspaper ads?</p> <p>17 A. That's a possible strategy.</p> <p>18 Q. But am I correct in understanding it's not one that</p>	<p style="text-align: center;">47</p> <p>1 Q. And what is it?</p> <p>2 A. It's survey research on voter attitudes and some message ad concepts.</p> <p>3 Q. And is this document what you base your beliefs that</p> <p>4 Burson-Marsteller will target minority communities on?</p> <p>5 MR. BRISSENDEN: Objection, vague.</p> <p>6 A. Can you be more specific, please.</p> <p>7 Q. So you said earlier that you think that</p> <p>8 Burson-Marsteller had data about how to target minority</p> <p>9 communities in a public education plan. I'm wondering if this document is your evidence that that's true?</p> <p>10 MR. BRISSENDEN: Same objection.</p> <p>11 A. Could you again restate your question, please.</p> <p>12 MR. VANDEWALKER: I'll ask the court reporter to read it back, please.</p> <p>(Requested portion was read by the reporter)</p> <p>13 MR. BRISSENDEN: Same objection. Also, to the extent it mischaracterizes the witness' prior testimony, I also object.</p> <p>14 A. Can you restate again, please.</p> <p>15 Q. I'll try a different question. Do you believe</p> <p>16 Burson-Marsteller has the ability to target minority communities</p> <p>17 in a public education plan?</p> <p>18 A. Yes.</p> <p>19 Q. Why do you think that's true?</p>
<p style="text-align: center;">46</p> <p>1 you're currently planning to do?</p> <p>2 A. It's not in the current plan, no.</p> <p>3 MR. VANDEWALKER: I apologize. I should have</p> <p>4 said earlier breaks should be, it's my firm belief, at the</p> <p>5 control of the witness. And I didn't say that, and I haven't</p> <p>6 offered you a break so far. So I'm going to take this</p> <p>7 opportunity to take a five- to ten-minute break.</p> <p>8 THE WITNESS: I'd appreciate that.</p> <p>9 (Recess from 3:37 p.m. to 3:48 p.m.)</p> <p>10 Q. I would like to take a look at the color exhibit,</p> <p>11 please.</p> <p>12 (Exhibit No. 7 marked)</p> <p>13 MS. STENCEL: And the court reporter has marked</p> <p>14 this as Parsons Exhibit No. 7. And Mr. Parsons has the exhibit.</p> <p>15 MR. VANDEWALKER: Thank you.</p> <p>16 MR. BRISSENDEN: And Ian, just for the record, so</p> <p>17 the record is clear, Exhibit 7 in color is the document I</p> <p>18 believe that you had asked Ms. Salazar about that was not in</p> <p>19 color. And we have, between the two depositions, gotten a copy</p> <p>20 in color for you.</p> <p>21 MR. VANDEWALKER: Yes, that's right. And I very</p> <p>22 much appreciate the quick turnaround on that from the State of</p> <p>23 Texas. Thank you.</p> <p>24 Q. Mr. Parsons, have you seen this document before?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">48</p> <p>1 A. Because of their experience on past campaigns and</p> <p>2 their demonstrated knowledge of public relations in advertising</p> <p>3 engagement and data that they have communicated to me.</p> <p>4 Q. Okay. What other past campaigns are you referring to?</p> <p>5 A. As I said, they've done -- in previous years they</p> <p>6 conducted a similar voter education campaign for the Secretary</p> <p>7 of State's office, before I was part of the Secretary of State's</p> <p>8 office. And they've done other voter -- similar voter education</p> <p>9 or voter outreach campaigns in other states, but I do not recall</p> <p>10 which states those are.</p> <p>11 Q. And what about those campaigns involve targeting</p> <p>12 minority communities?</p> <p>13 A. It's my understanding that that was part of the --</p> <p>14 that that was part of those campaigns.</p> <p>15 Q. Have you seen documents relating to those campaigns?</p> <p>16 A. I have seen some -- I don't know if they're briefs or</p> <p>17 synopsis of past campaigns, but I've seen some of that. Not as</p> <p>18 it specifically relates to minority outreach. Just campaigns in</p> <p>19 general.</p> <p>20 Q. You also mentioned data that Burson-Marsteller has</p> <p>21 related to targeting minority communities. What data is that?</p> <p>22 MR. BRISSENDEN: Objection, asked and</p> <p>23 answered.</p> <p>24 A. Can you restate that, please.</p> <p>25 MR. VANDEWALKER: I'll ask the court reporter to</p>

<p style="text-align: center;">53</p> <p>1 Q. If you could turn to Page 19 of this exhibit, the 2 slide entitled Web Sites and media are most used source of voter 3 information.</p> <p>4 A. Okay. I'm there. Sorry. I'm there.</p> <p>5 Q. Thank you. If I could just direct you to the second 6 group of columns there that says Media. What does media mean, 7 as it's used here?</p> <p>8 MR. BRISSENDEN: Objection, calls for speculation.</p> <p>9 A. I can tell you what it means to me.</p> <p>10 Q. Okay. What does it mean to you?</p> <p>11 A. Traditional sources such as newspapers, periodicals, 12 television, radio, and I guess their online equivalents as well.</p> <p>13 Q. Okay. And in looking to the fourth column labeled 14 Advertising, what does advertising mean, as used here?</p> <p>15 A. As I understand it, it would be ads placed in 16 different forms of media: Online, broadcast, print.</p> <p>17 Q. Okay. Thank you. And if we could look at the first 18 group of columns here that's labeled Web Sites. The far left 19 column -- I don't know what color to call this. I'll call it 20 orange -- says that all Texas voters, as I understand it. And 21 what percentage of Texas voters have answered the question, when 22 seeking out information or news about voting in your community 23 that they find the information on web sites?</p> <p>24 A. 67 percent.</p>	<p style="text-align: center;">55</p> <p>1 believe that the 24 percent doesn't include all racial 2 identities combined in that age range?</p> <p>3 A. Can you say that again, please.</p> <p>4 Q. Do you have any reason to believe that, as reflected 5 in this chart, the 18- to 24-year-old group doesn't include all 6 races?</p> <p>7 MR. BRISSENDEN: Objection, calls for speculation.</p> <p>8 To the extent you know, you may answer.</p> <p>9 A. Can you restate that. I'm not clear on what you're 10 asking.</p> <p>11 MR. VANDEWALKER: Withdrawn.</p> <p>12 Q. Do you see any information on the group of columns 13 related to social networking sites about what percentage of 14 African Americans use that as a source of information they need?</p> <p>15 A. No.</p> <p>16 Q. Any information about African Americans anywhere on 17 this page?</p> <p>18 A. No.</p> <p>19 Q. Turning to now Page 21. It's a slide titled Voters 20 find the process fair and accessible.</p> <p>21 A. Yes, I'm there.</p> <p>22 Q. Thank you. Okay. So the question here that was asked 23 of respondents was, "Do you believe that the voting process is 24 fair and accessible to all Texans?" And if I could direct your</p>
<p style="text-align: center;">54</p> <p>1 Q. And so then is it your understanding that over 30 2 percent of Texas voters don't use web sites to seek out 3 information they need about voting?</p> <p>4 MR. BRISSENDEN: Objection, vague. Calls for speculation.</p> <p>5 A. It's my understanding that 67 percent do.</p> <p>6 Q. And in that group of columns, the far right column, 7 which seems to be black, is Hispanic voters. What percentage of 8 Hispanic voters use web sites?</p> <p>9 A. 53 percent.</p> <p>10 Q. And do you see on this chart any representation of 11 what percentages of African Americans use different sources for 12 information they need about voting?</p> <p>13 A. No.</p> <p>14 Q. And just look towards the middle of the column -- 15 group of columns marked Social Networking Sites, what percentage 16 of Hispanics, according to this, use social networking sites?</p> <p>17 A. 13 percent.</p> <p>18 Q. And what percentage of 18- to 24-year-olds use social 19 networking sites?</p> <p>20 A. 24 percent.</p> <p>21 Q. And do you know what the racial composition of the 18- 22 to 24-year-old group in this survey is?</p> <p>23 A. I do not.</p> <p>24 Q. Do you know if it has -- do you have any reason to</p>	<p style="text-align: center;">56</p> <p>1 attention under the big circle, the first column, "Texas 2 Voters," what is the most commonly given reason that Texans 3 that some people said they do not believe the voting process is 4 fair and accessible to all Texans?</p> <p>5 MR. BRISSENDEN: Objection, vague.</p> <p>6 A. Can you say that again, please.</p> <p>7 Q. So the bottom of this page describes the people who 8 said no, they don't believe the voting process is fair and 9 accessible to all Texans and the reason they gave. The column 10 all the way to the left gives a list of reasons. Could you tell 11 me which of those reasons is the most commonly given, has the 12 highest percentage of respondents?</p> <p>13 MR. BRISSENDEN: Objection, vague, to the extent 14 it mischaracterizes the information.</p> <p>15 Q. Do you understand the question?</p> <p>16 A. Not really.</p> <p>17 Q. Okay. The lower half of the box on this page says, in 18 a smaller box, "If no, why do you believe that the voting 19 process is not fair and accessible to all Texans?" Do you see 20 that?</p> <p>21 A. Yes.</p> <p>22 Q. And then underneath it is a series of columns broken 23 down. The far left column is labeled "Texas Voters". Do you 24 see that?</p> <p>25 A. Yes.</p>

<p style="text-align: center;">61</p> <p>1 A. How far into the next page?</p> <p>2 Q. I would say please read until Line 7 in the next page.</p> <p>3 A. Okay. "If I could just direct you to Paragraph 7.</p> <p>4 You say that, 'In order to have a basic education program the</p> <p>5 Secretary of State's office would need a final decision by</p> <p>6 August 15th,' and then you contrast that with a complete</p> <p>7 education program which would need a decision by no later than</p> <p>8 July 6th. I wonder if you could tell me: What's the difference</p> <p>9 between a basic program and a complete program?"</p> <p>10 Answer: "I cannot. That would be a Rich Parsons</p> <p>11 question."</p> <p>12 Question: "Could you turn to the next page and tell</p> <p>13 me: Did you sign this affidavit?"</p> <p>14 Answer: "I did."</p> <p>15 Question: "And so when you signed this affidavit did</p> <p>16 you understand what Paragraph 7 meant?"</p> <p>17 Answer: "I understand that it's what Rich told me."</p> <p>18 Q. Thank you. So could you explain to me why Keith</p> <p>19 Ingram said that you told him to say that there's a difference</p> <p>20 between a complete education program and a basic program?</p> <p>21 MR. BRISSENDEN: To the extent that requires</p> <p>22 speculation on the part of Keith's mental thought processes,</p> <p>23 I'll object. You may answer.</p> <p>24 A. I don't know that I told him to say anything. That's</p> <p>25 your speculation. To the extent --</p>	<p style="text-align: center;">63</p> <p>1 A. To me -- I speak only for me -- the difference would</p> <p>2 be education campaign essentially run out of my office, by me,</p> <p>3 using press releases, earned media, op eds potentially, and</p> <p>4 community visits as best that we could do it with the limited</p> <p>5 resources that I have.</p> <p>6 Q. I'm sorry. Is what you just described -- which one of</p> <p>7 the options is what you just described?</p> <p>8 A. The basic.</p> <p>9 Q. Okay. And what would a complete education plan look</p> <p>10 like?</p> <p>11 A. Paid advertising, coordinated community events,</p> <p>12 coordinated community outreach, more coordinated community</p> <p>13 visits, targeted advertising, I guess, within the overall</p> <p>14 advertising, things like that. A more formally planned</p> <p>15 campaign.</p> <p>16 Q. Okay. With that understanding in mind and seeing that</p> <p>17 in Keith Ingram's affidavit he said that a complete program</p> <p>18 would not be possible unless there were a final decision before</p> <p>19 no later than July 6th, do you agree that the complete education</p> <p>20 program that you just described is not possible if there's no</p> <p>21 final decision on preclearance before July 6th?</p> <p>22 A. Based -- having done the primary voter education</p> <p>23 campaign, from the experience there, I can see that we can move</p> <p>24 very quickly on a coordinated campaign.</p> <p>25 Q. I'm sorry. I'm not sure I understand. Is your answer</p>
<p style="text-align: center;">62</p> <p>1 Q. Do you recall having -- I'm sorry.</p> <p>2 A. To the extent there might have been any conversation,</p> <p>3 I can tell you what, to me, differentiates a complete versus a</p> <p>4 basic education program.</p> <p>5 Q. Do you recall talking to Keith Ingram about different</p> <p>6 kinds of education plans and the timing of the preclearance of</p> <p>7 S.B. 14?</p> <p>8 A. I have a recollection of conversations, but I don't</p> <p>9 have a recollection of exactly what was said.</p> <p>10 Q. Do you recall Keith Ingram telling -- discussing with</p> <p>11 you an affidavit that he was going to sign?</p> <p>12 A. Yes.</p> <p>13 Q. And do you recall talking about, with respect to that</p> <p>14 affidavit, what education plan the Secretary of State would be</p> <p>15 able to put out?</p> <p>16 A. Vaguely. Like I said, I don't remember the -- I don't</p> <p>17 remember what was said, the words exchanged.</p> <p>18 Q. So as you sit here today, do you understand what Keith</p> <p>19 Ingram meant when he said -- when he made a distinction between</p> <p>20 a basic education program and a complete program?</p> <p>21 A. If it's based on a conversation we had, then I know</p> <p>22 what my differentiation would be, but I don't know -- I guess,</p> <p>23 reading this, if he says it's based on a conversation we had, I</p> <p>24 know what I would differentiate it as.</p> <p>25 Q. Okay. What do you think the difference is?</p>	<p style="text-align: center;">64</p> <p>1 that it is possible to have what you described as a complete</p> <p>2 program, even if the decision comes after July 6th?</p> <p>3 A. Yes.</p> <p>4 Q. So if I understand you correctly, you're saying that</p> <p>5 what Keith Ingram said in Paragraph 7 is false?</p> <p>6 A. No, that's not correct.</p> <p>7 Q. What do you understand Keith Ingram to have said in</p> <p>8 his affidavit about whether a complete program is possible?</p> <p>9 MR. BRISSENDEN: Objection, asked and answered</p> <p>10 calls for speculation.</p> <p>11 To the extent you can answer the question, you</p> <p>12 may.</p> <p>13 A. "In order to have a basic education program in place</p> <p>14 to have a successful November 2012 election season, the</p> <p>15 Secretary of State's office would need to have a final decision</p> <p>16 by August 15, 2012; however, to have a complete program that</p> <p>17 would mirror what our Texas voters, counties and local entities</p> <p>18 have become accustomed to, we would need to have a final</p> <p>19 decision no later than July 6."</p> <p>20 That's what I understand him to say.</p> <p>21 Q. Do you think that statement is true or false?</p> <p>22 MR. BRISSENDEN: Objection, calls for speculation</p> <p>23 as to what Mr. Ingram meant when he said it or stated it in his</p> <p>24 affidavit. The question is conclusory.</p> <p>25 To the extent you have information or are able to</p>

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1 answer, you may.
 2 A. He signed the affidavit. It's sworn and subscribed on
 3 March 22nd. And what I'm saying is, based on my experience in
 4 April and May with the first phase of our campaign and having
 5 seen how quickly we can move on all aspects of that campaign,
 6 now I can say confidently that we could move quickly on Phase 2.
 7 This affidavit was given before the bulk of the primary phase
 8 was run. And now with experience running that, I'm much better
 9 informed on how to run Phase 2.

10 Q. The voter education effort in the primary, did that
 11 involve educating voters about photo ID requirements under
 12 S.B. 14?

13 A. No. Well, we're not permitted to educate voters on
 14 the photo identification requirements in Senate Bill 14 because
 15 it has not been precleared by the Department of Justice.
 16 Therefore, anything we would do to educate on Senate Bill 14
 17 would be implementation of a law we're not permitted to
 18 implement, and we don't want to violate the law.

19 Q. So your experience with the primary is different from
 20 what would be contemplated after preclearance, in that it had
 21 nothing to do with photo ID requirements?

22 A. We did educate voters that no photo ID was necessary
 23 in the primary election. That was a core message of every
 24 community engagement, media engagement stop we did. So we did
 25 educate that no photo ID would be required.

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1 over a million dollars, as we talked about earlier, on its voter
 2 education plan, a plan that you just said included telling
 3 people they don't have to bring photo ID to the polls. Now
 4 we're talking about, after preclearance, a plan that will have
 5 to tell people the exact opposite of that. How can that not be
 6 substantially different?

7 MR. BRISSENDEN: Objection, argumentative.

8 A. It's telling people you do and telling them what it is
 9 and how to get it if they don't have it.

10 Q. Which are all different messages than the primary
 11 voter education campaign.

12 A. And I've just communicated those messages to you,
 13 simply and understandably.

14 Q. Is what you just said going to be the sum and
 15 substance of the content of the voter education plan concerning
 16 photo ID requirements under S.B. 14?

17 A. No.

18 Q. So do you acknowledge that you did not just
 19 communicate everything to me that a voter would need to know
 20 under S.B. 14?

21 MR. BRISSENDEN: Objection, vague and

22 argumentative.

23 A. I communicated a summarization.

24 Q. Okay. If we could look back at Paragraph 7 in Keith
 25 Ingram's affidavit. The first part of that sentence before the

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1 Q. So it didn't include -- it didn't need to include any
 2 information about how to go and get photo ID because that wasn't
 3 a component of the law at that time?

4 A. We weren't -- we did not want to be in violation of
 5 the law, so we did not educate voters on the requirements within
 6 Senate Bill 14.

7 Q. So the education that would be required after S.B. 14
 8 was precleared would necessarily be different from the kind of
 9 education you were doing for the primary?

10 A. Not substantially.

11 Q. What do you mean by substantially?

12 A. I anticipate the difference would be now you would be
 13 required to provide photo ID when you vote, educate voters on
 14 what is permissible and educate voters on how to obtain an
 15 election identification card if they did not have ID that was
 16 permissible under Senate Bill 14. That's not substantially
 17 different.

18 Q. And after the Secretary of State's office has spent
 19 over a million dollars to educate voters pursuant to a plan that
 20 doesn't include information about -- the information that
 21 they're required to bring photo ID, you now think that it will
 22 be not substantially different to educate voters with a plan
 23 that will have to include the opposite message?

24 A. Can you be more clear on your question, please.

25 Q. So the Secretary of State's office has already spent

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1 semicolon says, "In order to have a basic education program in
 2 place to have a successful 2012 election season, the Secretary
 3 of State's office would need to have a final decision by August
 4 15th."

5 If there is not a final decision on preclearance until
 6 August 31st, does that mean that not even a basic education
 7 program will be possible?

8 MR. BRISSENDEN: Objection to the extent that
 9 calls for speculation.

10 To the extent you have knowledge and are able to
 11 answer the question, you may do so.

12 A. We will execute a successful education program
 13 regardless of when a decision is made.

14 Q. How do you define success?

15 A. We will identify the appropriate message or messages
 16 and then we will communicate that through the strategies that
 17 we've discussed here today to as many, if not all, registered
 18 voters in Texas.

19 Q. And how will you know if you've achieved that goal?

20 MR. BRISSENDEN: Same objection.

21 To the extent you have knowledge and you're able
 22 to answer, you may do so.

23 A. In a literal sense, there's no way to know that you've
 24 reached every single voter. In a practical and literal sense
 25 there's no way to know you've reached every single voter.

<p style="text-align: center;">73</p> <p>1 MS. STELCEN: You're referring to Exhibit 2, Ian. 2 MR. VANDEWALKER: I apologize. Exhibit 2. 3 You're right.</p> <p>4 THE WITNESS: So where are we?</p> <p>5 Q. My question is does Exhibit 2 show spending up to 6 March 31st and not after?</p> <p>7 A. Yes.</p> <p>8 Q. And is there a similar document that shows spending 9 after March 31st?</p> <p>10 A. It's likely, but I didn't have it, so I didn't have 11 anything to turn over.</p> <p>12 Q. How many -- strike that.</p> <p>13 Turning back to Keith Ingram's affidavit. In 14 Paragraph 7, he says in order to have a basic education program 15 the Secretary of State's office would need a final decision by 16 August 15th. If a final decision isn't reached until August 17 31st, will the education program have less of an impact?</p> <p>18 A. No.</p> <p>19 Q. Why not?</p> <p>20 A. Because a generally held belief in public relations 21 and advertising is that if you promote or advertise too early, 22 by the time it's important, it will be forgotten. If you wait 23 too late, it won't have the impact. That gives -- did you say 24 -- what date did you say?</p> <p>25 Q. August 15th versus August 31st.</p>	<p style="text-align: center;">75</p> <p>1 program. I have not conducted a voter education program prior 2 to this. So it's much -- that experience is invaluable in 3 preparing for Phase 2.</p> <p>4 Q. So if, as you said earlier, August 31st would not have 5 -- a decision by August 31st would not cause the plan to have 6 less of an impact than August 15th. Was that also true if the 7 decision were delayed another two weeks, to September 15th?</p> <p>8 A. I would simply say that regardless of when there is a 9 decision, we will conduct a successful campaign.</p> <p>10 Q. If there was a decision on November 5th, would you 11 conduct a successful campaign?</p> <p>12 A. To the best of our abilities, yes.</p> <p>13 Q. What does success mean in that context?</p> <p>14 A. That would be speculative.</p> <p>15 Q. You used the word successful campaign. I want to 16 understand what you meant by successful campaign that would be 17 conducted in less than one day.</p> <p>18 MR. BRISSENDEN: Objection, vague, argumentative.</p> <p>19 A. In one day, it may be a successful campaign could be a 20 press release. We would do everything in our ability to 21 communicate that to the voters, everything in our ability.</p> <p>22 Q. So do you define success by how many voters you reach 23 with your message?</p> <p>24 MR. BRISSENDEN: Objection, asked and answered.</p> <p>25 I believe we've covered this.</p>
<p style="text-align: center;">74</p> <p>1 A. That would leave two months. That would leave two 2 full months for the program.</p> <p>3 Q. Was that belief -- generally held belief in 4 communication also generally held in March, when Keith Ingram 5 submitted this affidavit?</p> <p>6 MR. BRISSENDEN: Objection, vague.</p> <p>7 A. I would think so.</p> <p>8 Q. Do you know why Keith Ingram said that it would be 9 impossible to have a basic education program in place if there 10 weren't a decision by August 15th?</p> <p>11 MR. BRISSENDEN: Objection, calls for 12 speculation. I believe we've covered this. Asked and answered.</p> <p>13 A. Can you ask that again.</p> <p>14 Q. Do you know why Keith Ingram said it would be 15 impossible to have a basic education program in place unless 16 there was a decision by August 15th?</p> <p>17 MR. BRISSENDEN: Same objection.</p> <p>18 Mischaracterizes the statement. I don't believe he says it's 19 impossible.</p> <p>20 A. If he says it was a Rich Parsons' question, then if 21 it's up to me, I would say prior -- not prior to -- that 22 affidavit, again, was signed in mid March or so. And having had 23 the experience of conducting the primary phase, I have a much 24 better understanding of -- and -- much better understanding of 25 what pieces we would have in place and how best to conduct the</p>	<p style="text-align: center;">76</p> <p>1 A. Can you ask that again.</p> <p>2 Q. Do you define success according to how many voters you 3 reach with your message?</p> <p>4 A. That is one way to calculate success.</p> <p>5 Q. How many voters would a press release on November 5th 6 reach?</p> <p>7 A. I don't know.</p> <p>8 Q. But it would be successful; is that correct?</p> <p>9 MR. BRISSENDEN: Objection, vague and 10 argumentative.</p> <p>11 You don't have to answer.</p> <p>12 Q. Do you understand the question?</p> <p>13 MR. BRISSENDEN: I've instructed him not to 14 answer. It's argumentative and I believe at this point you're 15 badgering the witness.</p> <p>16 MR. VANDERWALKER: I'm just trying to understand 17 what it means that it's possible to have a successful campaign 18 that starts on November 5th for an election that happens 19 November 6th. I want to understand what success means.</p> <p>20 MR. BRISSENDEN: We've been here all afternoon, 21 and he has been answering your questions. We've already gone 22 over what is a successful campaign. He's provided you with 23 testimony about how they would measure that in terms of 24 impressions. I believe he's answered the question. At this 25 point I think your questioning is argumentative.</p>

<p style="text-align: center;">1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 30%;">STATE OF TEXAS,</td><td style="width: 10%; text-align: right;">)</td></tr> <tr><td>Plaintiff,</td><td style="text-align: right;">)</td></tr> <tr><td>VS.</td><td style="text-align: right;">)</td></tr> <tr><td>ERIC H. HOLDER, JR. in his official capacity as Attorney General of the United States,</td><td style="text-align: right;">)</td></tr> <tr><td>Defendant,</td><td style="text-align: right;">)</td></tr> <tr><td>ERIC KENNIE, et al.,</td><td style="text-align: right;">)</td></tr> <tr><td>Defendant-Intervenors,</td><td style="text-align: right;">)</td></tr> <tr><td>TEXAS STATE CONFERENCE OF NAACP BRANCHES,</td><td style="text-align: right;">CASE NO. 1:12-CV-00128 (RMC-DST-RLW)</td></tr> <tr><td>Defendant-Intervenors,</td><td style="text-align: right;">Three-Judge Court</td></tr> <tr><td>TEXAS LEAGUE OF YOUNG VOTERS EDUCATION FUND, et al.,</td><td style="text-align: right;">)</td></tr> <tr><td>Defendant-Intervenors,</td><td style="text-align: right;">)</td></tr> <tr><td>TEXAS LEGISLATIVE BLACK CAUCUS, et al.,</td><td style="text-align: right;">)</td></tr> <tr><td>Defendant-Intervenors,</td><td style="text-align: right;">)</td></tr> <tr><td>VICTORIA RODRIGUEZ, et al.,</td><td style="text-align: right;">)</td></tr> <tr><td>Defendant-Intervenors.</td><td style="text-align: right;">)</td></tr> </table> <p style="text-align: center;">***** ORAL DEPOSITION OF SENATOR DAN PATRICK MAY 30, 2012 *****</p>	STATE OF TEXAS,)	Plaintiff,)	VS.)	ERIC H. HOLDER, JR. in his official capacity as Attorney General of the United States,)	Defendant,)	ERIC KENNIE, et al.,)	Defendant-Intervenors,)	TEXAS STATE CONFERENCE OF NAACP BRANCHES,	CASE NO. 1:12-CV-00128 (RMC-DST-RLW)	Defendant-Intervenors,	Three-Judge Court	TEXAS LEAGUE OF YOUNG VOTERS EDUCATION FUND, et al.,)	Defendant-Intervenors,)	TEXAS LEGISLATIVE BLACK CAUCUS, et al.,)	Defendant-Intervenors,)	VICTORIA RODRIGUEZ, et al.,)	Defendant-Intervenors.)	<p style="text-align: center;">3</p> <p style="text-align: center;">A P P E A R A N C E S</p> <p>FOR THE PLAINTIFF, STATE OF TEXAS:</p> <p>Patrick K. Sweeten OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548</p> <p>209 West 14th Street 8th Floor Austin, TX 78701 (512) 936-1307 patrick.sweeten@texasattorneygeneral.gov</p> <p>FOR THE DEFENDANT, HOLDER, ET AL:</p> <p>Spencer Fisher Bruce Gear Michelle McLeod U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW NWB - Room 7202 Washington, DC 20530 (202) 305-7766 spencer.fisher@usdoj.gov bruce.gear@usdoj.gov</p> <p>FOR THE KENNIE INTERVENORS:</p> <p>Chad W. Dunn BRAZIL & DUNN, LLP 4201 Cypress Creek Parkway Suite 530 Houston, TX 77068 (281) 580-6310 chad@brazilanddunn.com</p> <p>FOR THE DEFENDANT INTERVENORS NAACP AND MALC:</p> <p>Amy L. Rudd DECHERT, LLP 300 W. 6th Street, Suite 2010 Austin, Texas 78701 (512) 394-3000 amy.rudd@dechert.com</p>														
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<p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF SENATOR DAN PATRICK, produced as 2 a witness at the instance of the Defendant, was duly 3 sworn, was taken in the above-styled and numbered cause 4 on the MAY 30, 2012, from 11:39 a.m. to 7:23 p.m., 5 before Chris Carpenter, CSR, in and for the State of 6 Texas, reported by machine shorthand, at the offices of 7 DECHERT, LLP, 300 W. 6th Street, Suite 2010, Austin, 8 Texas 78701, pursuant to the Federal Rules of Civil 9 Procedure and the provisions stated on the record or 10 attached hereto.</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">4</p> <p style="text-align: center;">INDEX</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 70%;">1 Appearances.....</td><td style="width: 30%; text-align: right;">3</td></tr> <tr><td>2 SENATOR DAN PATRICK</td><td></td></tr> <tr><td>3 Examination by Mr. Spencer.....</td><td style="text-align: right;">5</td></tr> <tr><td>4 Examination by Mr. Dunn.....</td><td style="text-align: right;">197</td></tr> <tr><td>5 Further Examination by Mr. Spencer.....</td><td style="text-align: right;">213</td></tr> <tr><td>6 Signature and Changes.....</td><td style="text-align: right;">300</td></tr> <tr><td>7 Reporter's Certificate.....</td><td style="text-align: right;">302</td></tr> <tr><td>8 EXHIBITS</td><td></td></tr> <tr><td>9 NO. DESCRIPTION</td><td style="text-align: right;">PAGE MARKED</td></tr> <tr><td>10 160 Amended Notice of Deposition</td><td style="text-align: right;">19</td></tr> <tr><td>11 161 Transcript Excerpt, March 11, 2009</td><td style="text-align: right;">93</td></tr> <tr><td>12 162 Transcript Excerpt, March 11, 2009</td><td style="text-align: right;">111</td></tr> <tr><td>13 163 Texas Legislature Online History, SB 362</td><td style="text-align: right;">121</td></tr> <tr><td>14 164 Senator Patrick Letter to Constituents, Fall 2010</td><td style="text-align: right;">123</td></tr> <tr><td>15 165 LexisNexis Name Search</td><td style="text-align: right;">155</td></tr> <tr><td>16 166 Texas Senate Staff Services Excerpt Senate Bill 14, Jan. 26, 2011</td><td style="text-align: right;">186</td></tr> <tr><td>17 167 Texas Senate Staff Services Excerpt Senate Bill 14, Jan. 26, 2011</td><td style="text-align: right;">194</td></tr> <tr><td>18 170 Senate Rules Adopted by 82nd Legislature, Jan. 19, 2011</td><td style="text-align: right;">223</td></tr> <tr><td>19 171 Capitol View, 82nd Legislative Session, Jan. 26, 2011</td><td style="text-align: right;">234</td></tr> <tr><td>20 173 Senator Patrick Letter to Constituents, 80th Legislature</td><td style="text-align: right;">262</td></tr> <tr><td>21 174 Houston Chronicle Article, May 19, 2011</td><td style="text-align: right;">264</td></tr> <tr><td>22 175 Texas Observer Article, June 15, 2007</td><td style="text-align: right;">271</td></tr> </table>	1 Appearances.....	3	2 SENATOR DAN PATRICK		3 Examination by Mr. Spencer.....	5	4 Examination by Mr. Dunn.....	197	5 Further Examination by Mr. Spencer.....	213	6 Signature and Changes.....	300	7 Reporter's Certificate.....	302	8 EXHIBITS		9 NO. DESCRIPTION	PAGE MARKED	10 160 Amended Notice of Deposition	19	11 161 Transcript Excerpt, March 11, 2009	93	12 162 Transcript Excerpt, March 11, 2009	111	13 163 Texas Legislature Online History, SB 362	121	14 164 Senator Patrick Letter to Constituents, Fall 2010	123	15 165 LexisNexis Name Search	155	16 166 Texas Senate Staff Services Excerpt Senate Bill 14, Jan. 26, 2011	186	17 167 Texas Senate Staff Services Excerpt Senate Bill 14, Jan. 26, 2011	194	18 170 Senate Rules Adopted by 82nd Legislature, Jan. 19, 2011	223	19 171 Capitol View, 82nd Legislative Session, Jan. 26, 2011	234	20 173 Senator Patrick Letter to Constituents, 80th Legislature	262	21 174 Houston Chronicle Article, May 19, 2011	264	22 175 Texas Observer Article, June 15, 2007	271
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<p>1 176 American Stateman Article, May 18, 2007 275 2 Senator Patrick Letter, Fall of 2008 286 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 Q. Good morning, Senator. 2 A. Good morning. 3 Q. If you could state your name and spell your 4 name for the record. 5 A. Dan Patrick, P-a-t-r-i-c-k. 6 Q. We'll just first start off with some ground 7 rules for today. Please testify truthfully, accurately, 8 and completely when answering my questions. 9 The court reporter, Mr. Carpenter here, 10 will prepare a transcript of everything that's said 11 today. You must respond to my questions verbally, so no 12 head shaking, and that's for the purposes of the 13 transcript. Is that clear? 14 A. Yes. 15 Q. Okay. Please wait for me to finish my 16 questions before you answer, and I will do the same for 17 you, and that way, it will be easier to read the 18 transcript. Is that okay? 19 A. Yes. 20 Q. And I'll try to ask you clear questions at all 21 times. If you don't understand a question, please let 22 me know. Okay? 23 A. Yes. 24 Q. If you wish to stop and take a break, please 25 tell me, and I will try to accommodate you. It just</p>
6	8
<p>1 THE REPORTER: The time on the record is 2 11:39. Could everybody here make announcements and your 3 affiliations? 4 MR. SWEETEN: Patrick Sweeten from the 5 Texas Attorney General's Office on behalf of the State 6 of Texas and on behalf the witness, Senator Patrick. 7 MR. FISHER: Spencer Fisher representing 8 the Attorney General of the United States. 9 MR. GEAR: Bruce Gear representing the 10 Attorney General of the United States. 11 MS. McLEOD: Michelle McLeod representing 12 the Attorney General of the United States. 13 MR. DUNN: Chad Dunn representing the 14 Defendant Kennie Intervenors. 15 MS. RUDD: Amy Rudd representing the 16 Defendant Intervenors NAACP and MALC. 17 MR. MCKENZIE: John McKenzie from the 18 Texas Attorney General's Office representing the State 19 of Texas and the witness. 20 DAN PATRICK, 21 having been first duly sworn to testify the truth, the 22 whole truth, and nothing but the truth, testified as 23 follows: 24 EXAMINATION 25 BY MR. FISHER:</p>	<p>1 depends on where we are in the questioning, but as soon 2 as we get to the next stopping point, I will do so. Is 3 that okay? 4 A. Yes. 5 Q. So just remember that you're under oath, and 6 you may be subject to the penalty of perjury for giving 7 false or misleading testimony today, just like at a 8 trial. Is that clear? 9 A. Yes. 10 Q. Do you understand all of the ground rules and 11 instructions? 12 A. Yes. 13 Q. Do you have any questions about any of them? 14 A. No. 15 Q. Are you on any medication today that would 16 affect your ability to testify? 17 A. No. 18 Q. Is there any reason why you cannot testify 19 truthfully and accurately today? 20 A. No. 21 Q. So I might use the terms "voter ID" and "photo 22 ID" interchangeably during this deposition. I want you 23 to interpret the term broadly to mean a requirement that 24 a voter present a form of identification, whether it has 25 a photo on it or otherwise, when voting in person before</p>

<p style="text-align: center;">25</p> <p>1 staff members are erased on some type of regular basis 2 but I'm not certain.</p> <p>3 Q. Is there any requirement, as a member of the 4 Texas Legislature, that you hang on to certain e-mails?</p> <p>5 A. I don't use -- no, there is none, not to my 6 knowledge. I mean, not to my knowledge. If there's a 7 policy, I'm not aware of it.</p> <p>8 Q. What about correspondence?</p> <p>9 A. Can you repeat the question?</p> <p>10 Q. What about correspondence?</p> <p>11 A. No. What about correspondence?</p> <p>12 Q. How are records in your office maintained with 13 regard to correspondence?</p> <p>14 A. It depends on the type of correspondence.</p> <p>15 Q. Constituent correspondence.</p> <p>16 A. There is a system that does, to my knowledge, 17 maintain the correspondence we get from constituents.</p> <p>18 Q. Is that system a part of the Texas Legislature, 19 or is it a part of your office?</p> <p>20 A. I believe it's a part of the Legislature.</p> <p>21 Q. What about your responses to that constituent 22 correspondence?</p> <p>23 A. I'm not involved directly in that, but I 24 believe we keep that record. I'm not certain, but I 25 believe we do.</p>	<p style="text-align: center;">27</p> <p>1 A. I'm just not certain. I'm aware there might 2 be, but I'm not certain if there is.</p> <p>3 Q. What about speeches, the speeches you give, 4 drafts of speeches, are those maintained in your office?</p> <p>5 A. I seldom write speeches.</p> <p>6 Q. Who writes speeches?</p> <p>7 A. I write, probably, all of my speeches. 98 8 percent of them.</p> <p>9 Q. What about reports, reports on legislation, 10 pending legislation, are those maintained in your 11 office?</p> <p>12 A. I would assume that some are for some 13 legislation, but I couldn't be certain of how much is 14 maintained.</p> <p>15 Q. So is it fair to say that you don't know what 16 records are maintained in your office and what records 17 are not maintained in your office?</p> <p>18 A. That would be fair to say.</p> <p>19 Q. Is there any off-site location where some 20 records in your office are stored?</p> <p>21 A. Off site being away from the Capitol?</p> <p>22 Q. Outside of your office.</p> <p>23 A. State records?</p> <p>24 Q. Yes.</p> <p>25 A. I'm not aware of any.</p>
<p style="text-align: center;">26</p> <p>1 Q. And is there some kind of policy that's at play 2 in keeping that?</p> <p>3 A. Not for my office specifically, but I'm not 4 sure of this legislative computer system. In that -- in 5 that respect, I don't know how long they are kept or 6 what is kept.</p> <p>7 Q. Have you told your staff to keep certain 8 correspondence, for instance, constituent 9 correspondence?</p> <p>10 A. Not that I recall.</p> <p>11 Q. So no instructions to your staff to hang on to 12 constituent correspondence?</p> <p>13 A. Not from me specifically.</p> <p>14 Q. And no instructions from you to retain your 15 responses to constituent correspondence?</p> <p>16 A. Repeat that again.</p> <p>17 Q. Are there any instructions from you to your 18 staff to retain your responses to constituent 19 correspondence?</p> <p>20 A. I'm sure on occasion I may have said, "Let's be 21 sure we keep that," but I don't have a specific 22 policy. I'm going to back to the issue that there may 23 be -- and I'm not even certain of this -- there may be a 24 state system that keeps everything, but I'm not certain.</p> <p>25 Q. But you're not aware of that?</p>	<p style="text-align: center;">28</p> <p>1 Q. So the records that your office does maintain 2 are located in your office at the Texas Legislature at 3 the Capitol?</p> <p>4 A. The -- yes, with the exception that I may have 5 some files that, that I keep that, that I might take 6 home, and may be legislation that I take home to read. 7 It could be a booklet that I take home to read. With 8 that exception, I'm not aware of any other.</p> <p>9 Q. So going back to Exhibit 160, did you look at 10 any of the files that might be at your home that were 11 responsive to any of the document requests in the 12 amended notice?</p> <p>13 A. Yeah, I did.</p> <p>14 Q. What's your educational background?</p> <p>15 A. I have a bachelor's degree in English.</p> <p>16 Q. From where?</p> <p>17 A. The University of Maryland in Baltimore County.</p> <p>18 Q. And how long have you served in the Senate?</p> <p>19 A. I have served four and a half -- five and a 20 half years.</p> <p>21 Q. And you were first elected in what year?</p> <p>22 A. I was elected in November of 2006.</p> <p>23 Q. What geographic areas are within your Senate 24 district? Well, first of all -- strike that.</p> <p>25 What senate district do you represent?</p>

<p style="text-align: center;">29</p> <p>1 A. Seven.</p> <p>2 Q. And what geographic areas are within your 3 district?</p> <p>4 A. That is West Harris County.</p> <p>5 Q. Do you know, roughly, the total population of 6 West Harris County?</p> <p>7 A. My Senate District, before redistricting, was 8 the largest in the state, 1,015,000 constituents.</p> <p>9 Q. Are you aware of the racial demographics of the 10 district that you serve, District 7?</p> <p>11 A. I have a general knowledge.</p> <p>12 Q. What's that general knowledge?</p> <p>13 A. I believe that the African American and Latino 14 population is approximately 39 percent of the district.</p> <p>15 Q. And that would be the Latino and African 16 American population combined is 39 percent of the 17 district; is that correct?</p> <p>18 A. Let me correct that. I don't know that that's 19 the population or the registered voters. I remember 20 seeing a number of black and Hispanic, 39, but I don't 21 know if that's population or registered voters.</p> <p>22 Q. Do you serve on any committees in the Texas 23 Senate?</p> <p>24 A. Yes.</p> <p>25 Q. Which ones?</p>	<p style="text-align: center;">31</p> <p>1 Q. So the one that passed in 2011, is that SB 14?</p> <p>2 Senate Bill 14?</p> <p>3 A. If that's what the record indicates.</p> <p>4 Q. So you don't remember right now if you were the 5 co-author of Senate Bill 14?</p> <p>6 A. I believe I was. But I have cast 13,000 votes 7 in three sessions, so you'd have to show me -- I don't 8 want to testify to something and not be absolutely 9 correct. I believe I was, but if you show me the 10 document, I'd be happy to say yes.</p> <p>11 Q. Is there a difference between casting a vote 12 and co-authoring a bill?</p> <p>13 A. Yes.</p> <p>14 Q. And what's the difference?</p> <p>15 A. You may cast a vote and not be a sponsor or a 16 co-author, an author of the bill. Usually, if you are a 17 sponsor, co-author, author of a bill, you're going to 18 cast a vote for it.</p> <p>19 Q. How many bills have you authored or 20 co-authored?</p> <p>21 A. I'd have to check the record, but a significant 22 number of bills.</p> <p>23 Q. Anywhere near 13,000?</p> <p>24 A. No.</p> <p>25 Q. How many bills have you sponsored or</p>
<p style="text-align: center;">30</p> <p>1 A. Finance, Sunset, Education, Redistricting, 2 Criminal Justice, Health and Human Services, 3 Intergovernmental Relations, Subcommittee on School 4 Charters, School Vouchers, Flooding and -- the 5 Subcommittee on Flooding and Drainage. I think that's 6 it.</p> <p>7 Q. Can you describe the Sunset Committee for me?</p> <p>8 A. The Sunset Committee, which I am brand new to 9 and haven't attended my first hearing, is -- reviews the 10 agencies in our government on a 12-year cycle.</p> <p>11 Q. Have you sponsored any election related or 12 voter-related bills?</p> <p>13 A. In a specific committee or in general?</p> <p>14 Q. In general.</p> <p>15 A. I'd have to check my record.</p> <p>16 Q. Have you co-sponsored any election related or 17 voter-related bills?</p> <p>18 A. I was a co-author, I believe, on the photo 19 voter ID bill.</p> <p>20 Q. And by photo voter ID bill, you mean?</p> <p>21 A. I mean --</p> <p>22 Q. Which one?</p> <p>23 A. I believe on the one that passed in 2011. I'm 24 not sure about 2009. I may have been. I don't recall. 25 Or maybe that was 2007. I don't recall.</p>	<p style="text-align: center;">32</p> <p>1 co-sponsored?</p> <p>2 A. I'd have to check the record.</p> <p>3 Q. Anywhere near 13,000?</p> <p>4 A. No.</p> <p>5 Q. And so you don't remember if in 2011 you 6 co-sponsored or co-authored Senate Bill 14; is that 7 correct?</p> <p>8 A. No. What I think my testimony was, and is: I 9 believe I did co-sponsor. But the point I'm trying to 10 make is that we -- I cast a lot of votes. We probably 11 passed 1500 bills. So if you're asking me the specific 12 number, I don't want to testify to a number if I'm not 13 sure. If you're asking me did I co-sponsor the photo 14 voter ID or co-author, actually, I believe I co-authored 15 it. If you want to show me Senate Bill 14, that's what 16 I'm not sure. I don't know the number.</p> <p>17 Q. We'll get to that.</p> <p>18 A. Okay.</p> <p>19 Q. But I just want to make it clear that you don't 20 know for sure, sitting right now without taking a look 21 at anything, if you did co-author or co-sponsor Senate 22 Bill 14?</p> <p>23 A. No. I believe I co-authored the photo voter 24 ID.</p> <p>25 Q. You believe?</p>

<p style="text-align: center;">45</p> <p>1 telephone.</p> <p>2 Q. Are you employed in a capacity other than as a</p> <p>3 Texas State Senator?</p> <p>4 A. Yes.</p> <p>5 Q. And what is that?</p> <p>6 A. I'm owner/operator of a radio station. Patrick</p> <p>7 Broadcasting would be the name of one. Dallas</p> <p>8 Broadcasting would be the name of two.</p> <p>9 Q. So as the owner/operator, is it fair to say</p> <p>10 that you are the employer?</p> <p>11 A. Yes.</p> <p>12 Q. And what are your responsibilities as the owner</p> <p>13 and operator of Patrick Broadcasting and --</p> <p>14 A. I'm responsible for the day to day -- I have</p> <p>15 employees who work day-to-day, obviously, who carry out</p> <p>16 various functions. But as the owner/operator, I'm</p> <p>17 responsible for making a profit.</p> <p>18 Q. How long have you been an owner/operator of</p> <p>19 Patrick Broadcasting?</p> <p>20 A. I have to check the record for the exact date,</p> <p>21 but I believe two years.</p> <p>22 Q. And before that?</p> <p>23 A. Before that, I was owner/operator of Houston</p> <p>24 Broadcasting.</p> <p>25 Q. And for how long?</p>	<p style="text-align: center;">47</p> <p>1 A. I would go to the record department of the City</p> <p>2 of Baltimore, but I couldn't give the exact address or</p> <p>3 phone number.</p> <p>4 Q. Do you have any idea how much it would cost to</p> <p>5 get a replacement of your birth certificate?</p> <p>6 A. I do not.</p> <p>7 Q. Do you have any idea how long it would take?</p> <p>8 A. I do not.</p> <p>9 Q. When is the last time that you voted?</p> <p>10 A. A couple of weeks ago.</p> <p>11 Q. And how did you vote?</p> <p>12 A. In person.</p> <p>13 Q. How far is the polling place from your home?</p> <p>14 A. Well, it's early voting, so there's a polling</p> <p>15 place very close to my home. But in early voting, you</p> <p>16 can vote anywhere. The place I voted was closer to my</p> <p>17 office than my home. So maybe 15 miles. But I could</p> <p>18 have voted within two miles.</p> <p>19 Q. Do you usually vote in person?</p> <p>20 A. Yes.</p> <p>21 Q. Do you prefer to vote in person?</p> <p>22 A. Yes.</p> <p>23 Q. Do you have any experience related to election</p> <p>24 law?</p> <p>25 A. Not specifically.</p>
<p style="text-align: center;">46</p> <p>1 A. I'd have to check the record, but approximately</p> <p>2 ten years.</p> <p>3 Q. When you last renewed your driver's license,</p> <p>4 where did you go to have that done?</p> <p>5 A. Hmm. That's an interesting question. I don't</p> <p>6 remember.</p> <p>7 Q. Have you renewed your driver's license in the</p> <p>8 past five years?</p> <p>9 A. I've renewed it, but I couldn't tell you</p> <p>10 exactly when.</p> <p>11 Q. You don't know how you renewed your driver's</p> <p>12 license?</p> <p>13 A. I -- I just recently, because I moved, renewed</p> <p>14 it online. I do recall that. I was thinking in person,</p> <p>15 as you phrased the question.</p> <p>16 Q. Do you have a copy of your birth certificate?</p> <p>17 A. I believe I do. I'm not certain, but I believe</p> <p>18 I do.</p> <p>19 Q. If you didn't have a copy of your birth</p> <p>20 certificate, do you know where you would go to get one?</p> <p>21 A. I couldn't tell you exactly today, but I could</p> <p>22 ascertain that information.</p> <p>23 Q. Is it fair to say you don't know where you</p> <p>24 would go to get a copy of your birth certificate as you</p> <p>25 sit here today?</p>	<p style="text-align: center;">48</p> <p>1 Q. Do you have any experience related to election</p> <p>2 administration?</p> <p>3 A. Not specifically.</p> <p>4 Q. Have you ever volunteered as a poll worker?</p> <p>5 A. I don't recall. I don't believe so.</p> <p>6 Q. Have you ever monitored the polls as a member</p> <p>7 of a political party?</p> <p>8 A. I have not monitored the polls.</p> <p>9 Q. Have you ever witnessed any problems in a</p> <p>10 polling place?</p> <p>11 A. Not to my knowledge.</p> <p>12 Q. Ever witness anyone trying to impersonate</p> <p>13 another voter?</p> <p>14 A. No.</p> <p>15 Q. Are you familiar with Section 5 of the Voting</p> <p>16 Rights Act?</p> <p>17 A. Not specifically.</p> <p>18 Q. "Not specifically" means you've never heard of</p> <p>19 Section 5 of the Voting Rights Act before?</p> <p>20 A. I've heard of Section 5, but I couldn't tell</p> <p>21 you specifically, unless I read it, exactly what it</p> <p>22 says.</p> <p>23 Q. So I'm not asking exactly what it says.</p> <p>24 A. Okay.</p> <p>25 Q. What I asked is: Are you familiar with</p>

<p style="text-align: center;">49</p> <p>1 Section 5 of the Voting Rights Act?</p> <p>2 MR. SWEETEN: Objection, argumentative.</p> <p>3 Go ahead and answer.</p> <p>4 A. Yeah. Again, I would have to have my memory</p> <p>5 refreshed on it.</p> <p>6 Q. (By Mr. Fisher) Do you know what the Voting</p> <p>7 Rights Act is?</p> <p>8 A. You would have to show me a document so that I</p> <p>9 can look at it.</p> <p>10 Q. So sitting here today, you have no knowledge of</p> <p>11 the Voting Rights Act; is that right?</p> <p>12 A. I cannot tell you specifically what's in the</p> <p>13 Act.</p> <p>14 Q. Do you know the general purpose of the Voting</p> <p>15 Rights Act?</p> <p>16 A. I would have to look at the history on that.</p> <p>17 Q. So sitting here today, you have no knowledge of</p> <p>18 the general purpose of the Voting Rights Act?</p> <p>19 A. My knowledge of the Voting Rights Act is that</p> <p>20 it is implemented for a certain number of states because</p> <p>21 of what the federal government deemed important at a</p> <p>22 certain point in time.</p> <p>23 Q. What's your understanding of what the federal</p> <p>24 government deemed important?</p> <p>25 A. I couldn't tell you specifically what the</p>	<p style="text-align: center;">51</p> <p>1 Q. Yes, but you've testified today that the</p> <p>2 federal government had a belief about voting</p> <p>3 irregularities, and so I'm asking: At what point did</p> <p>4 that belief end, if at all?</p> <p>5 MR. SWEETEN: Objection, vague.</p> <p>6 Q. (BY MR. FISHER) You can answer.</p> <p>7 A. I don't know.</p> <p>8 Q. Does Texas have a history of what you term</p> <p>9 voting irregularities?</p> <p>10 A. Not that I'm aware of.</p> <p>11 Q. Is Texas covered by Section 5?</p> <p>12 A. Yes.</p> <p>13 Q. How does the legislature ensure that election</p> <p>14 laws comply with Section 5?</p> <p>15 MR. SWEETEN: I'm going to, at this point</p> <p>16 go ahead and instruct Senator Patrick, who has asserted</p> <p>17 his legislative privilege today, about the contours of</p> <p>18 legislative privilege.</p> <p>19 In answering your questions today, do not</p> <p>20 reveal thoughts, mental impressions, opinions, or</p> <p>21 motivations about legislation or in furtherance of</p> <p>22 legislative process, including Senate Bill 14.</p> <p>23 Also, do not reveal today communications</p> <p>24 that you've had with legislators, legislative staff,</p> <p>25 state agencies, the Texas Legislative Council, or</p>
<p style="text-align: center;">50</p> <p>1 government was thinking at a certain point in time and</p> <p>2 why they deemed it important. But obviously, the Voting</p> <p>3 Rights Act was implemented for a specific reason by the</p> <p>4 federal government at a specific time.</p> <p>5 Q. And you're not aware of that reason?</p> <p>6 A. I couldn't tell you what the government's</p> <p>7 specific reason. My general knowledge would tell me</p> <p>8 that the federal government was concerned about voting</p> <p>9 irregularities at a certain point in history.</p> <p>10 Q. What do you mean by voting irregularities?</p> <p>11 A. You asked me the question of what I believed</p> <p>12 that to be, and that was my answer.</p> <p>13 Q. That was your answer, but my next question is:</p> <p>14 What do you believe the meaning of voting</p> <p>15 irregularities, as you used the term, meant?</p> <p>16 A. My impression is that it -- that the federal</p> <p>17 government, at some point, believed that some people</p> <p>18 were not allowed to vote at a certain point in history.</p> <p>19 Q. And at what point did the federal government</p> <p>20 believe this?</p> <p>21 A. That, I don't know.</p> <p>22 Q. Has the federal government stopped believing</p> <p>23 this?</p> <p>24 A. I can't tell you what the federal government</p> <p>25 believes or doesn't believe.</p>	<p style="text-align: center;">52</p> <p>1 constituents.</p> <p>2 If you can answer that question without</p> <p>3 revealing that information, you can do so.</p> <p>4 Also, just so you understand, my</p> <p>5 instruction does not -- and you are free to include</p> <p>6 matters of public record, including committee hearings,</p> <p>7 Floor proceedings, in providing answers.</p> <p>8 THE WITNESS: Okay.</p> <p>9 A. What was the question?</p> <p>10 MR. SWEETEN: Would you mind reading back</p> <p>11 the question?</p> <p>12 (The requested portion was read back by</p> <p>13 the court reporter.)</p> <p>14 A. I don't know.</p> <p>15 Q. (By Mr. Fisher) Has Texas ever denied the right</p> <p>16 to vote to any of its citizens, to your knowledge?</p> <p>17 A. No.</p> <p>18 Q. Do you seek legal advice before voting on</p> <p>19 election-related legislation?</p> <p>20 A. Repeat that question.</p> <p>21 Q. Do you seek legal advice before voting on</p> <p>22 election-related legislation?</p> <p>23 MR. SWEETEN: You can answer whether or</p> <p>24 not you seek legal advice. Don't answer the substance</p> <p>25 of any communications regarding that.</p>

<p style="text-align: center;">53</p> <p>1 A. I'm just thinking -- I'm just trying to answer 2 honestly if I have or not. Just say that one more time 3 for me, Spencer.</p> <p>4 Q. (By Mr. Fisher) Do you seek legal advice before 5 voting on election-related legislation?</p> <p>6 A. Do I seek legal advice before voting on 7 legislation? Not to my knowledge.</p> <p>8 Q. Does your staff seek legal advice before you 9 make a vote on election-related legislation and provide 10 you advice?</p> <p>11 A. I can't speak to what my staff may or may not 12 do.</p> <p>13 Q. Do you receive any legal advice on election- 14 related legislation to ensure compliance with Section 5 15 before you vote on election-related legislation?</p> <p>16 A. Not to my knowledge.</p> <p>17 Q. Did you receive any legal advice from the Texas 18 Legislative Council on those matters?</p> <p>19 A. Not that I recall.</p> <p>20 Q. Did you receive any legal advice on Senate Bill 21 14 to ensure its compliance with Section 5?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Do you receive bill analysis before making 24 votes on election-related legislation?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">55</p> <p>1 recall anything beyond that.</p> <p>2 Q. So when would that have occurred then?</p> <p>3 A. I'm not sure of the exact date. Whenever your 4 office made the first request. I'm not sure when that 5 was.</p> <p>6 Q. What's Texas's current system for determining 7 how to verify the identity of a voter?</p> <p>8 A. Would you repeat that?</p> <p>9 Q. What is the Texas's current system for 10 determining how to verify the identity of a voter?</p> <p>11 A. I would have to look at the specific law.</p> <p>12 Q. So as we sit here today, you do not know Texas 13 state law regarding the verification of the identity of 14 a voter; is that correct?</p> <p>15 A. If you ask me specifically do I know the state 16 law word for word, sentence by sentence, I do not.</p> <p>17 Q. I'm not asking you if you know specifically 18 word by word, sentence by sentence. Do you know the 19 current system for determining how to verify the 20 identity of a voter in Texas?</p> <p>21 MR. SWEETEN: Objection, asked and 22 answered.</p> <p>23 A. I do not know specifically line for line, 24 sentence by sentence, what that law is.</p> <p>25 Q. (By Mr. Fisher) Do you know generally Texas's</p>
<p style="text-align: center;">54</p> <p>1 Q. Did you receive bill analysis before making a 2 vote on Senate Bill 14?</p> <p>3 A. I can't specifically recall that situation, but 4 I would assume I did.</p> <p>5 Q. Did this bill analysis concern compliance with 6 Section 5?</p> <p>7 A. I don't remember.</p> <p>8 Q. Have you received any communications regarding 9 Senate Bill 14 in 2012?</p> <p>10 A. Well, obviously, I received communications from 11 your office to look into the bill.</p> <p>12 Q. Have you received any communications from your 13 staff regarding Senate Bill 14 in 2012?</p> <p>14 A. Yes.</p> <p>15 Q. When was that?</p> <p>16 A. I don't recall specifically.</p> <p>17 Q. From who?</p> <p>18 A. I believe Logan Spence.</p> <p>19 Q. Did Logan Spence provide a bill analysis of 20 Senate Bill 14 in 2012?</p> <p>21 A. Not that I recall. What I'm referring is, he 22 communicated to me on this bill, based on the request 23 from your office, to search our documents. That's the 24 -- you asked a broad question, have I talked to my staff 25 about this bill, and that's what I recall. I don't</p>	<p style="text-align: center;">56</p> <p>1 current system for determining how to identify a voter?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. What is it?</p> <p>4 A. They verify your address.</p> <p>5 Q. How do they do that?</p> <p>6 A. By some form of identification.</p> <p>7 Q. What type of identification?</p> <p>8 A. Something that would have your address.</p> <p>9 Q. Anything else?</p> <p>10 A. If someone doesn't have verification of the 11 address, they are still able to vote.</p> <p>12 Q. How do they do that?</p> <p>13 A. Simply vote.</p> <p>14 Q. So your testimony here today is that under 15 current state law, a voter has to verify their address 16 with something that has their address, but if they don't 17 have that, then they still vote. Is that correct?</p> <p>18 A. No. My testimony is, I don't state law 19 specifically. You asked me the question generally. I 20 answered the question in general.</p> <p>21 Q. So you don't know the requirements of Texas 22 State law concerning how to verify the identity of a 23 voter?</p> <p>24 A. I have already answered that question.</p> <p>25 Q. Do you believe that the system that Texas uses</p>

<p style="text-align: center;">57</p> <p>1 to verify the identity of a voter prevents voter fraud?</p> <p>2 MR. SWEETEN: I'm going to interpose an 3 objection with respect to legislative privilege.</p> <p>4 First of all, don't reveal thoughts, 5 mental impressions or opinions, or motivations about 6 legislation, including Senate Bill 14, and don't reveal 7 communications with legislators, legislative staff, 8 state agencies, the Texas Leg Council or constituents in 9 answering this question. To the extent you can answer 10 the question based upon matters of the public record, 11 you can do so.</p> <p>12 A. I assert legislative privilege on that, I 13 believe.</p> <p>14 Q. (By Mr. Fisher) What is voter ID fraud?</p> <p>15 MR. SWEETEN: You can answer.</p> <p>16 A. Voter fraud would be someone who is not 17 eligible to vote or impersonating another person. 18 Voting multiple times.</p> <p>19 Q. (By Mr. Fisher) Do you believe this happens in 20 Texas?</p> <p>21 A. I assert legislative intent on what I believe.</p> <p>22 MR. SWEETEN: You can answer as to right 23 now, as you're sitting here, do you believe voter fraud 24 occurs in Texas. But in answering the question, don't 25 reveal your thoughts or mental impressions about</p>	<p style="text-align: center;">59</p> <p>1 Q. Do you have any general knowledge about that?</p> <p>2 MR. SWEETEN: Senator Patrick, with 3 respect to the matter of legislative privilege, don't 4 reveal in your answer your thoughts, your mental 5 impressions, your motivations about legislation. To the 6 extent you can answer the question without doing so, 7 with respect to referring to the matters of the public 8 record, you can.</p> <p>9 A. Say that again.</p> <p>10 Q. (By Mr. Fisher) Do you have any general 11 knowledge about someone impersonating another voter 12 someone voting multiple times, or someone who is not 13 eligible to vote, voting in Texas?</p> <p>14 MR. SWEETEN: The same instruction.</p> <p>15 A. That would be legislative privilege on what I 16 believe is the -- on general knowledge.</p> <p>17 Q. (By Mr. Fisher) Have you heard of any 18 allegations of someone doing any of those types of 19 things?</p> <p>20 MR. SWEETEN: Again, you can answer to the 21 extent that you're not revealing your thoughts, mental 22 impressions, opinions, or motivations about legislation, 23 or communications that you had with legislators or staff 24 members, any other.</p> <p>25 A. Repeat the question.</p>
<p style="text-align: center;">58</p> <p>1 legislation. So you can answer as you are sitting here.</p> <p>2 A. Do I believe it occurs? Yes.</p> <p>3 Q. (By Mr. Fisher) What do you believe occurs?</p> <p>4 MR. SWEETEN: The same instruction. To 5 the extent you can answer without revealing your mental 6 impressions, thoughts, opinions, motivations about 7 legislation, or in furtherance of the legislative 8 process, you can answer.</p> <p>9 THE WITNESS: Can you repeat the question, 10 please?</p> <p>11 MR. FISHER: I'll strike the last 12 question.</p> <p>13 Q. (By Mr. Fisher) Just summarizing, you said 14 voter fraud is someone impersonating someone else or 15 voting multiple times. Is there anything else?</p> <p>16 A. Or if they're not eligible to vote.</p> <p>17 Q. If not eligible to vote.</p> <p>18 A. If they're not a registered voter.</p> <p>19 Q. And do you know of any specific instances of 20 any of these types of voter fraud that you've 21 identified: Someone impersonating someone else, someone 22 voting multiple times, or someone voting who is not 23 eligible to vote happening in Texas?</p> <p>24 A. I don't have a -- I don't have specific 25 knowledge.</p>	<p style="text-align: center;">60</p> <p>1 MR. FISHER: Can you repeat the question? 2 (The requested portion read back by the 3 court reporter.)</p> <p>4 A. I assert my general -- I mean, my legislative 5 privilege.</p> <p>6 Q. (By Mr. Fisher) So you assert your legislative 7 privilege over whether you've heard allegations about 8 someone impersonating another voter, someone voting 9 multiple times, or someone voting who is not eligible to 10 vote; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware of any complaints regarding 13 someone impersonating another voter, someone voting 14 multiple times, or someone who is not eligible to vote, 15 voting in Texas, to your office?</p> <p>16 MR. SWEETEN: The same objection. The 17 same instruction.</p> <p>18 A. I assert my legislative privilege.</p> <p>19 Q. (By Mr. Fisher) Are you aware of any 20 convictions in the state of Texas for any of those three 21 types of activities?</p> <p>22 MR. SWEETEN: The same instruction. If 23 you can answer based upon the public record --</p> <p>24 A. Yeah, I believe -- I believe there is -- I 25 believe there is public record that I have read that</p>

<p style="text-align: center;">61</p> <p>1 there have been convictions.</p> <p>2 Q. (By Mr. Fisher) Are you aware of any of the</p> <p>3 specifics of those convictions?</p> <p>4 A. I am not.</p> <p>5 Q. Do you believe that Texas's current system has</p> <p>6 prevented voter fraud, as you have defined it here today</p> <p>7 in your testimony?</p> <p>8 MR. SWEETEN: I'm going to again instruct</p> <p>9 you: With respect to the legislative privilege, do not</p> <p>10 reveal thoughts, mental impressions, opinions,</p> <p>11 motivation about legislation or in furtherance of the</p> <p>12 legislative process, nor conversations with legislators,</p> <p>13 the Leg staff, state agencies, Texas Leg Council, or</p> <p>14 constituents. You can answer the question to the extent</p> <p>15 you are not revealing that information.</p> <p>16 A. Yeah. I assert the privilege legislative</p> <p>17 privilege on that.</p> <p>18 Q. (By Mr. Fisher) So you assert legislative</p> <p>19 privilege over whether Texas's current system for</p> <p>20 identifying a voter has prevented voter fraud, as you</p> <p>21 have defined it today in your testimony; is that</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. When did you first hear about any support for</p> <p>25 enacting a voter identification requirement in Texas?</p>	<p style="text-align: center;">63</p> <p>1 been marked previously as Exhibit 29. Okay. Does this</p> <p>2 document look familiar to you?</p> <p>3 A. Yeah. I mean, it's -- it's legislation that</p> <p>4 I've seen before, yeah.</p> <p>5 Q. Okay. So this is a nine page document with a</p> <p>6 notation, SB Number 362 in the upper right-hand corner.</p> <p>7 A. Okay.</p> <p>8 Q. Does this -- is this the bill concerning voter</p> <p>9 ID that was introduced in 2009 in the Senate?</p> <p>10 A. It appears to be.</p> <p>11 Q. When did you first hear about SB 362?</p> <p>12 A. Boy, I don't remember.</p> <p>13 Q. Were you involved in the development of SB 362?</p> <p>14 A. I don't think so.</p> <p>15 Q. Were you the co-sponsor of SB 362?</p> <p>16 A. I'd have to check the record. I would assume I</p> <p>17 was but I'd have to check the record.</p> <p>18 Q. Were you a co-author of SB 362?</p> <p>19 A. It would have -- if I was one of the two, it</p> <p>20 would be an author. Because if it's a Senate bill that</p> <p>21 originates, you're an author; if it's a House bill that</p> <p>22 originates, you're a sponsor. You can't be both. So if</p> <p>23 I was one, I would have been a co-author. I'd have to</p> <p>24 check the record.</p> <p>25 Q. Were you involved in developing the language in</p>
<p style="text-align: center;">62</p> <p>1 MR. SWEETEN: Same instruction.</p> <p>2 A. Yeah. I assert legislative privilege.</p> <p>3 MR. SWEETEN: You can refer to matters of</p> <p>4 the public record or matters that are not part of that.</p> <p>5 A. I don't recall anything on the public record,</p> <p>6 so I just don't recall whenever I first read something</p> <p>7 or saw something on that.</p> <p>8 Q. (By Mr. Fisher) Do you remember hearing</p> <p>9 anything in the public about enacting voter -- photo</p> <p>10 voter identification in Texas?</p> <p>11 MR. SWEETEN: You can answer.</p> <p>12 A. Yeah. I'm sure I have.</p> <p>13 Q. (By Mr. Fisher) And what were the circumstances</p> <p>14 of that?</p> <p>15 A. I don't recall.</p> <p>16 MR. FISHER: We're at a good stopping</p> <p>17 point. Let's take ten minutes. I've got one o'clock.</p> <p>18 (Recess from 1:00 p.m. to 1:16 p.m.)</p> <p>19 Q. (By Mr. Fisher) Okay. Senator Patrick, do you</p> <p>20 recall voter ID legislation in 2009 in the Senate?</p> <p>21 MR. SWEETEN: You may answer that</p> <p>22 question.</p> <p>23 A. Yeah, you know, I recall it but, you know,</p> <p>24 vaguely. I do recall it.</p> <p>25 Q. (By Mr. Fisher) I'm going to hand you what's</p>	<p style="text-align: center;">64</p> <p>1 SB 362?</p> <p>2 A. I don't believe I was. I don't recall.</p> <p>3 Q. So you don't believe you participated in the</p> <p>4 development of any of the language in SB 362?</p> <p>5 A. It's possible I could have, so I can't say with</p> <p>6 certainty that I did not, but I don't believe I was</p> <p>7 involved in it.</p> <p>8 Q. When SB 362 was being considered by the Senate</p> <p>9 did you have any communications with other legislators</p> <p>10 about it?</p> <p>11 MR. SWEETEN: You can answer as to whether</p> <p>12 or not you had communications. Don't reveal the</p> <p>13 substance of those however.</p> <p>14 A. I -- I'm sure I did. I mean, I'm sure there</p> <p>15 were --</p> <p>16 Q. (By Mr. Fisher) Do you remember any of those</p> <p>17 conversations?</p> <p>18 A. I don't.</p> <p>19 Q. Did you have communications with any of the</p> <p>20 staff of other legislators during the time that SB 362</p> <p>21 was being considered by the Senate?</p> <p>22 MR. SWEETEN: Same instruction.</p> <p>23 A. I don't think so. Could have, but I don't</p> <p>24 think so.</p> <p>25 Q. (By Mr. Fisher) Did you have communications</p>

<p style="text-align: center;">65</p> <p>1 with officials or legislators from any other states 2 about SB 362 when the Texas Senate was considering the 3 bill?</p> <p>4 A. I don't think so.</p> <p>5 Q. You don't think so, meaning you did or you 6 didn't?</p> <p>7 A. I don't believe I did. With certainty could I 8 say I didn't, but I don't believe. I don't remember 9 anything specific.</p> <p>10 Q. Any communications with anyone in Georgia?</p> <p>11 A. I don't recall that.</p> <p>12 Q. Any communications with anyone in Indiana?</p> <p>13 A. I feel certain the answer is no.</p> <p>14 Q. Any communications with interest groups?</p> <p>15 A. Do you want to define that? Or is that just a 16 broad spectrum of -- there are all kind of groups.</p> <p>17 Q. To the extent you can answer, answer the 18 questions, please.</p> <p>19 MR. SWEETEN: And you can answer the 20 question so the extent you understand it.</p> <p>21 THE WITNESS: Yeah.</p> <p>22 MR. SWEETEN: But don't reveal the 23 substance of communication. He's simply asking were 24 there communications.</p> <p>25 THE WITNESS: Yeah.</p>	<p style="text-align: center;">67</p> <p>1 Q. (By Mr. Fisher) Are you asserting legislative 2 privilege on the advice of your counsel with regard to 3 that last question?</p> <p>4 THE WITNESS: I can?</p> <p>5 MR. SWEETEN: Yeah.</p> <p>6 A. I assert legislative privilege on the -- on the 7 question that you asked.</p> <p>8 Q. (By Mr. Fisher) Is voter ID an issue you that 9 consider important?</p> <p>10 MR. SWEETEN: Same objection. Same 11 instruction.</p> <p>12 Don't answer the question. Legislative 13 privilege.</p> <p>14 A. I assert legislative privilege.</p> <p>15 Q. So you assert legislative privilege over 16 whether you consider voter ID to be an important issue?</p> <p>17 MR. SWEETEN: Your question asks that he 18 reveal his thoughts, mental impressions, opinions, 19 motivation about legislation regarding SB 362 or in 20 furtherance of the legislative process. As such, it 21 is -- it is --he's asking for matters that are clearly 22 afforded privilege under the legislative privilege.</p> <p>23 Q. (By Mr. Fisher) Senator, you're asserting 24 legislative privilege over that question?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">66</p> <p>1 MR. SWEETEN: You can answer that.</p> <p>2 A. It's -- it's possible I could have talked to a 3 group, but I don't -- I don't recall anything 4 specifically. But like I say, with certainty, that I 5 didn't ever have a conversation with someone.</p> <p>6 Q. (By Mr. Fisher) Did you have any communications 7 with groups representing minority voters?</p> <p>8 A. Again, I can't recall specifically any 9 communication with any group. Could have happened but I 10 don't recall it.</p> <p>11 Q. Do you remember SB 362?</p> <p>12 A. Not -- not specifically. You know, I mean, not 13 clearly.</p> <p>14 Q. So the matters that SB 362 addresses, meaning 15 voter ID are not that important to you; is that 16 correct?</p> <p>17 MR. SWEETEN: Objection, 18 argumentative. Also you're asking him to reveal 19 thoughts, mental impressions, opinions, motivations 20 about legislation. As to whether or not it's important 21 to him is a -- is a question that would clearly impact 22 that. So I'm not going to -- I'm going to instruct him 23 not to answer the question based on legislative 24 privilege.</p> <p>25 A. Yeah, I assert legislative privilege.</p>	<p style="text-align: center;">68</p> <p>1 Q. Is that on the advice of your counsel?</p> <p>2 A. Yes. And I believe that's appropriate for me 3 to do.</p> <p>4 Q. SB 362 aside, is voter ID an important issue 5 for you as a Texas State Senator?</p> <p>6 MR. SWEETEN: Okay. As you are sitting 7 here today, you can answer just that question as you're 8 sitting here today; but don't reveal matters of 9 privilege</p> <p>10 A. Okay. Repeat the question. Sorry, I don't 11 mean to -- but just -- I want to be sure I get this 12 right.</p> <p>13 MR. FISHER: Can you repeat the question, 14 please. Thank you.</p> <p>15 (The requested portion was read by the court 16 reporter.)</p> <p>17 A. Yes.</p> <p>18 Q. (By Mr. Fisher) SB 362 was considered in 2009; 19 is that correct?</p> <p>20 A. Yes.</p> <p>21 Q. And the subject matter of SB 362 was voter ID; 22 is that correct?</p> <p>23 A. Yes.</p> <p>24 Q. And as you sit here today, you testified that 25 voter ID is an important issue to you; is that correct?</p>

<p style="text-align: center;">69</p> <p>1 A. Yes.</p> <p>2 Q. But you've also stated, as you sit here today, 3 that you can't recall any the specifics about SB 362; is 4 that correct?</p> <p>5 A. Consider -- considering that was about 3,000 6 bills ago, yes, I can't recall the specifics of it.</p> <p>7 Q. As you sit here today, how many issues do you 8 consider to be important to you as a Texas State 9 Senator?</p> <p>10 MR. SWEETEN: Objection, vague. 11 You can answer.</p> <p>12 A. Do you want to define that?</p> <p>13 Q. (By Mr. Fisher) Is it less than 3,000?</p> <p>14 A. Yes.</p> <p>15 Q. Roughly, how many?</p> <p>16 A. There are dozens of issues that are important 17 to me.</p> <p>18 Q. Do you take a particular interest in the bills 19 that address issues that are important to you?</p> <p>20 A. It depends on the level, you know. What is the 21 -- when you say take an interest, obviously you take an 22 interest. You try to take an interest in 23 everything. But there's -- there's only so much time 24 you can spend on any one issue. There are limitations, 25 so...</p>	<p style="text-align: center;">71</p> <p>1 communication, just the general subject matter. Go 2 ahead.</p> <p>3 A. Yeah, I don't -- I don't recall, specifically, 4 going back three years ago.</p> <p>5 Q. (By Mr. Fisher) But it is your testimony that 6 voter identification is a priority issue for you as a 7 Texas State Senator as you sit here today; is that 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. And you don't remember if you had 11 communications with anyone about the forms of 12 identification included in the voter identification bill 13 in 2009; is that correct?</p> <p>14 MR. SWEETEN: Objection asked and 15 answered. Objection, argumentative.</p> <p>16 Go ahead. You can answer.</p> <p>17 A. Yeah, I honestly can't recall the specific 18 conversations. That's three years ago, about one of 19 hundreds of thousands of bills that we look at.</p> <p>20 Q. (By Mr. Fisher) Did you analyze or direct 21 anyone to analyze which registered voters did not 22 possess one of the required forms of identification 23 identified in SB 362?</p> <p>24 MR. SWEETEN: Do not answer the question. 25 He's asking matters that are protected by the</p>
<p style="text-align: center;">70</p> <p>1 Q. So you said you try to take an interest in 2 everything. Do you take an interest in things that are 3 your legislative priorities more so than other things?</p> <p>4 A. I -- take an interest in legislative 5 priorities, first, that -- that I write. I didn't write 6 this bill.</p> <p>7 Q. You testified earlier you were not sure if you 8 authored this bill. Is that still your testimony now?</p> <p>9 A. I think, you have to check the record. I think 10 you asked if I co-authored. I definitely didn't author 11 the bill. I think your question was did I co-sponsor or 12 co-author and I clarified difference. I'd have to check 13 the record. I believe I co-authored it but I'd have to 14 check the record. But I didn't author it. I didn't 15 write it.</p> <p>16 Q. Did you support SB 362?</p> <p>17 A. Yes.</p> <p>18 Q. Did you vote for SB 362?</p> <p>19 MR. SWEETEN: You can answer.</p> <p>20 A. Yes.</p> <p>21 Q. (By Mr. Fisher) Did you have communications 22 with anyone about the forms of ID that were included in 23 SB 362?</p> <p>24 MR. SWEETEN: You can answer the question 25 as phrased. Don't reveal the substance of the</p>	<p style="text-align: center;">72</p> <p>1 legislative privilege.</p> <p>2 A. I assert legislative privilege.</p> <p>3 Q. (By Mr. Fisher) Are you asserting legislative 4 privilege on the advice of your counsel with regard to 5 that question?</p> <p>6 A. Yes.</p> <p>7 Q. Did you read any research or analysis of voter 8 ID to assist you in your determination about whether to 9 support SB 362 or not?</p> <p>10 MR. SWEETEN: Okay. Do not reveal 11 thoughts, mental impressions, opinions or motivations 12 about legislation or in furtherance of legislative 13 process. His question clearly would, and I instruct you 14 not to the answer based on legislative privilege.</p> <p>15 A. I assert legislative privilege.</p> <p>16 Q. (By Mr. Fisher) Did you make a decision whether 17 to support or not support SB 362 at some point?</p> <p>18 A. Did I make a decision? Yes.</p> <p>19 Q. Prior to making that decision, what did you 20 think was important to guide your determination --</p> <p>21 MR. SWEETEN: Do not answer --</p> <p>22 Q. (By Mr. Fisher) -- about whether to support or 23 not support SB 362?</p> <p>24 MR. SWEETEN: Objection, legislative 25 privilege.</p>

<p style="text-align: center;">73</p> <p>1 Instruct you not to answer.</p> <p>2 A. Yeah, I assert legislative privilege.</p> <p>3 Q. (By Mr. Fisher) Did you conduct or instruct</p> <p>4 anyone to conduct an analysis of the impact of SB 362 on</p> <p>5 minority voters?</p> <p>6 MR. SWEETEN: Objection, calls for matters</p> <p>7 subject to legislative privilege.</p> <p>8 Instruct not to answer.</p> <p>9 A. I assert legislative privilege.</p> <p>10 Q. (By Mr. Fisher) Are you asserting legislative</p> <p>11 privilege on the advice of your counsel with regard to</p> <p>12 that question?</p> <p>13 A. Correct.</p> <p>14 Q. We discussed Section 5 of the Voting Rights Act</p> <p>15 earlier. If SB 362 had passed, would it have been</p> <p>16 subject to the requirements of Section 5 of the Voting</p> <p>17 Rights Act?</p> <p>18 A. I can't answer that specifically.</p> <p>19 Q. So you don't know if a bill like SB 362</p> <p>20 concerning voter ID would be covered by Section 5 of the</p> <p>21 Voting Rights Act; is that correct?</p> <p>22 MR. SWEETEN: Objection, vague.</p> <p>23 Go ahead. You can answer that question.</p> <p>24 A. Yeah, I assert legislative privilege on what I</p> <p>25 thought at the time.</p>	<p style="text-align: center;">75</p> <p>1 MR. SWEETEN: Well, hold on a minute. As</p> <p>2 you're sitting here today, you can answer his question</p> <p>3 as to whether or not voter ID bills are covered by that</p> <p>4 as far as you know, but don't reveal matters of your</p> <p>5 thought process as you were working on these -- this</p> <p>6 legislation.</p> <p>7 A. I mean, I believe -- I believe they are.</p> <p>8 Q. (By Mr. Fisher) So if SB 362 had been passed,</p> <p>9 would it have been subject to the requirements of</p> <p>10 Section 5?</p> <p>11 MR. SWEETEN: I think that's been asked</p> <p>12 and answered, but go ahead.</p> <p>13 A. I mean, I believe that it would have been.</p> <p>14 Q. (By Mr. Fisher) All right. So we'll turn your</p> <p>15 attention the Exhibit SB 362 which you have in front of</p> <p>16 you.</p> <p>17 A. Okay.</p> <p>18 Q. It's a nine -- as I mentioned, nine-page</p> <p>19 document with notation SB 362 in the upper right-hand</p> <p>20 corner. And I'd like to turn your attention to, if</p> <p>21 you'll look at the bottom, there are page numbers, Page</p> <p>22 3 of the exhibit.</p> <p>23 A. All right.</p> <p>24 Q. And that's Section 6, Section 63.001.</p> <p>25 MR. SWEETEN: Spencer, right here. Are</p>
<p style="text-align: center;">74</p> <p>1 Q. (By Mr. Fisher) Do bills concerning voter ID</p> <p>2 identification remain subject to the requirements of</p> <p>3 Section 5 of the Voting Rights Act today?</p> <p>4 MR. SWEETEN: Can you read that back. I</p> <p>5 missed first part.</p> <p>6 A. Yeah, I missed that too a little bit.</p> <p>7 (The requested portion was read by the</p> <p>8 court reporter.)</p> <p>9 MR. SWEETEN: Objection, asked and</p> <p>10 answered.</p> <p>11 I'm going to let you answer the question.</p> <p>12 A. Yeah, I'm a little unclear on that question if</p> <p>13 you want to maybe rephrase it, take another shot at it.</p> <p>14 I'm not sure I really understand that question.</p> <p>15 Q. (By Mr. Fisher) Are voter ID bills covered by</p> <p>16 Section 5?</p> <p>17 A. Are voter IDs? I could not give the legal</p> <p>18 answer on that.</p> <p>19 Q. Can you give me a non-legal answer on that?</p> <p>20 A. I would assert privilege on what I think about</p> <p>21 that issue.</p> <p>22 Q. So you're asserting legislative privilege over</p> <p>23 whether voter identification bills are covered by</p> <p>24 Section 5 of the Voting Rights Act, is that correct, as</p> <p>25 you sit here today?</p>	<p style="text-align: center;">76</p> <p>1 you talking about Section 6?</p> <p>2 MR. FISHER: Correct.</p> <p>3 A. Page 3, Section 6, I have it.</p> <p>4 Q. (By Mr. Fisher) So please take a look at that.</p> <p>5 MR. SWEETEN: Caution the witness to</p> <p>6 review the document.</p> <p>7 A. Okay. I read it.</p> <p>8 Q. (By Mr. Fisher) What forms of identification</p> <p>9 would have been allowed under SB 362?</p> <p>10 A. I do not recall.</p> <p>11 Q. Considering the document that's in front of you</p> <p>12 identifying what forms of identification are permitted</p> <p>13 under SB 362, does that change your answer?</p> <p>14 A. Can you show me where that is?</p> <p>15 Q. Section 6 -- Section 6 -- 63.001 B, "On</p> <p>16 offering to vote, a voter must present to an election</p> <p>17 officer at the polling place either: 1, One form of</p> <p>18 identification listed in Section 63.0101 A; or 2, two</p> <p>19 different forms of identification listed in Section</p> <p>20 63.001 B."</p> <p>21 A. I -- I don't see the list. What am I missing?</p> <p>22 Q. Well, Senator, it seems that the forms of</p> <p>23 identification are incorporated by reference by this</p> <p>24 section. Does that seem correct to you?</p> <p>25 MR. SWEETEN: You can answer based on the</p>

<p style="text-align: center;">77</p> <p>1 text of the bill that's in front of you.</p> <p>2 A. You're -- I don't see the forms listed in here</p> <p>3 unless I'm looking at something different.</p> <p>4 Q. (By Mr. Fisher) Senator, when bills lay out</p> <p>5 lists of things required, do they often incorporate --</p> <p>6 are they incorporated by reference in other parts of the</p> <p>7 bill?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. In the piece of the bill that you're</p> <p>10 looking at here, does it seem to reference other</p> <p>11 sections of the bill that do lay out the forms of</p> <p>12 identification that are allowed?</p> <p>13 MR. SWEETEN: Read it carefully.</p> <p>14 A. Yes, listed in 63.0101.</p> <p>15 Q. (By Mr. Fisher) Okay. So turning to Page 5.</p> <p>16 A. Okay.</p> <p>17 Q. 63.0101 A.</p> <p>18 A. Okay.</p> <p>19 Q. The following documentation is an acceptable</p> <p>20 form of photo identification under this chapter. Would</p> <p>21 you please read --</p> <p>22 A. Sure.</p> <p>23 Q. -- the sections after that.</p> <p>24 A. Sure.</p> <p>25 Q. And that would be 1, 2, 3, 4 --</p>	<p style="text-align: center;">79</p> <p>1 Q. While SB 362 was being considered by the</p> <p>2 Senate, did you consider proposing any additional forms</p> <p>3 of identification, either to Section A or Section B,</p> <p>4 photo or non-photo, identification?</p> <p>5 MR. SWEETEN: Objection, based on</p> <p>6 legislative.</p> <p>7 I would ask -- it would require you to</p> <p>8 reveal thoughts, mental impressions, opinions,</p> <p>9 motivations about legislation or in furtherance of the</p> <p>10 legislative process of which that's legislative</p> <p>11 privilege. You can refer to matters of the public</p> <p>12 record to answer.</p> <p>13 A. The public record that I offered, you can ask</p> <p>14 me if I can answer, but I don't recall.</p> <p>15 Q. (By Mr. Fisher) What was the purpose of SB 362?</p> <p>16 MR. SWEETEN: You can answer as to the</p> <p>17 general purpose, and in that regard I'm going to pull</p> <p>18 out the Court Order.</p> <p>19 The Court has ordered that the privilege</p> <p>20 does not protect testimony with respect to the general</p> <p>21 purpose or the purpose of a legislature as a whole in</p> <p>22 enacting Senate Bill 14 as opposed to the subjective</p> <p>23 intent.</p> <p>24 So you can testify as to, to the extent</p> <p>25 you know, as to the general purpose of the enactment of</p>
<p style="text-align: center;">78</p> <p>1 A. Okay. I'm sorry, I was confused --</p> <p>2 Q. -- 5 and 6.</p> <p>3 A. -- on there. Okay.</p> <p>4 Q. So what forms of identification would have been</p> <p>5 allowed under SB 362?</p> <p>6 A. As I'm reading the legislation: A driver's</p> <p>7 license or a public identification card issued by the</p> <p>8 Department of Public Safety, a certificate that contains</p> <p>9 the person's photograph of citizenship, a concealed-</p> <p>10 carry license, a person's photograph on a valid ID by an</p> <p>11 agency or institution of the federal government, agency</p> <p>12 institution or political subdivision of the state, also</p> <p>13 a voter registration certificate or an official mail</p> <p>14 address to the person, the birth certificate,</p> <p>15 citizenship, court records on adoption, identification</p> <p>16 card issued by a person of government entity, a</p> <p>17 temporary driving permit, a pilot's license, a library</p> <p>18 card, a hunting and fishing license. I'm reading this</p> <p>19 quickly but it would appear.</p> <p>20 Q. Okay. And if we can reference the section I</p> <p>21 showed you first, I think you'll see that one form of</p> <p>22 identification under Section A is permitted, or two</p> <p>23 forms of identification under Section B are permitted;</p> <p>24 is that correct?</p> <p>25 A. Correct.</p>	<p style="text-align: center;">80</p> <p>1 the legislation.</p> <p>2 A. The purpose of the legislation was to protect</p> <p>3 the integrity of the ballot box.</p> <p>4 Q. (By Mr. Fisher) And what does it mean to</p> <p>5 protect the integrity of the ballot box?</p> <p>6 A. That people who vote are who they say they are,</p> <p>7 and are registered, legal voters.</p> <p>8 Q. In 2009, was there people -- was there a</p> <p>9 particular problem with people voting who were not who</p> <p>10 they said they were or not legally registered voters?</p> <p>11 MR. SWEETEN: To the extent this question</p> <p>12 asks you to reveal your thoughts, your mental</p> <p>13 impressions, your opinions, motivation about legislation</p> <p>14 or in furtherance of the legislative process or</p> <p>15 communications that we've outlined previously, don't</p> <p>16 reveal that information.</p> <p>17 A. I would assert legislative privilege.</p> <p>18 Q. (By Mr. Fisher) Are you asserting legislative</p> <p>19 privilege over that question on the advice of your</p> <p>20 counsel?</p> <p>21 A. Yes. Yes, I am.</p> <p>22 Q. Are you aware of any public debate about</p> <p>23 whether, in 2009, there was a particular problem with</p> <p>24 voters voting who were not who they said they were, or</p> <p>25 voters voting who were not legally eligible to vote?</p>

<p style="text-align: center;">81</p> <p>1 MR. SWEETEN: You can answer the question 2 as phrased.</p> <p>3 A. Yeah, there was debate on the Senate Floor. 4 So, yes.</p> <p>5 Q. (By Mr. Fisher) How does the language of SB 362 6 prevent voters voting who are not who they say they are 7 or not eligible, legally eligible to vote?</p> <p>8 MR. SWEETEN: Objection. The question 9 calls for you reveal matters subject to the legislative 10 privilege and require you to reveal your thoughts, 11 mental impressions, opinions and motivation about 12 legislation; therefore, I instruct you not to answer the 13 question.</p> <p>14 A. I assert legislative privilege.</p> <p>15 Q. (By Mr. Fisher) As you're looking at the 16 language -- as you're sitting here today looking at the 17 language of this bill sitting before you --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- how does the language of this bill remedy 20 the two problems you've just identified, that being, 21 voters voting who are not who they say they are, and 22 voters voting who are not legally eligible to vote?</p> <p>23 MR. SWEETEN: I think you're asking him to 24 reveal his thoughts, mental impressions, opinions about 25 legislation; therefore, I think that's a matter of</p>	<p style="text-align: center;">83</p> <p>1 A. I'm not aware of anything on the public record 2 and I would assert legislative on anything that's not.</p> <p>3 Q. (By Mr. Fisher) Did anyone contact your office 4 to alert you of evidence of any of the problems that 5 you've identified that would have been remedied by SB 6 362?</p> <p>7 MR. SWEETEN: I'm going to object. I 8 think that if you're asking whether or not he had 9 communications, I'm going freely allow him to answer 10 that question. But what you have -- the way you've 11 prefaced that question, I think you're asking a 12 specific -- more than a general subject matter 13 description of the conversation, so I would object to 14 that question.</p> <p>15 However, Spencer, I will work with you. 16 If you want to ask, you know, questions of, you know, 17 that where it's not as loaded with the subject matter, 18 you're free to ask Senator Patrick.</p> <p>19 Q. (By Mr. Fisher) Did anyone communicate with 20 your office -- first of all, are you asserting 21 legislative privilege in response to my last question?</p> <p>22 A. Yes.</p> <p>23 Q. Is that on the advice of your counsel?</p> <p>24 A. Yes.</p> <p>25 Q. Did anyone contact your office, communicate</p>
<p style="text-align: center;">82</p> <p>1 legislative privilege.</p> <p>2 A. I assert legislative privilege.</p> <p>3 Q. (By Mr. Fisher) Are you asserting legislative 4 privilege on the advice of your counsel in response to 5 that question?</p> <p>6 A. I'm asserting it on what I believe are my 7 rights.</p> <p>8 Q. Has your counsel advised you not to answer that 9 question based on legislative privilege?</p> <p>10 MR. SWEETEN: The record reflects what my 11 advice was, so.</p> <p>12 A. Yeah, I didn't hear him say that in that 13 particular question. I didn't hear him advise me not to 14 answer that question.</p> <p>15 Q. (By Mr. Fisher) Is there any evidence in 2009 16 that the particular problems you've identified existed?</p> <p>17 MR. SWEETEN: To the extent that question 18 would require you to reveal your thoughts, your mental 19 impressions, opinions or motivation about legislation, 20 that matter would be legislatively privileged; 21 therefore, I object based upon that, and instruct you 22 not to answer on that basis. In the event that you -- 23 there are matters that you can testify that do not 24 invade the privilege, you can do so, on matters of 25 public record.</p>	<p style="text-align: center;">84</p> <p>1 with your office, regarding the issues concerning 2 protecting the integrity of the ballot box?</p> <p>3 MR. SWEETEN: I'll -- I'll let you answer 4 the question. Just yes or no.</p> <p>5 A. Yeah. I'm sure they did. I don't know the 6 specifics, but...</p> <p>7 Q. (By Mr. Fisher) Do you know who contacted you?</p> <p>8 A. No.</p> <p>9 Q. Do you know when?</p> <p>10 A. No.</p> <p>11 Q. How would SB 362 have been more effective in 12 presenting -- preventing in-person voter fraud than the 13 current practice?</p> <p>14 MR. SWEETEN: Is that the end of the 15 question?</p> <p>16 I'm going to instruct you, as legislative 17 privilege that will require you to reveal your thoughts, 18 your mental impressions, your opinions or motivations 19 about legislation; therefore, instruct you not to 20 answer.</p> <p>21 A. I assert legislative privilege on the advice of 22 my attorney.</p> <p>23 Q. (By Mr. Fisher) So as you sit here today 24 looking at the language of SB 362 which is sitting in 25 front of you, can you tell me how this language would be</p>

<p style="text-align: center;">85</p> <p>1 more effective in preventing voter impersonation than 2 what is currently in practice in Texas?</p> <p>3 MR. SWEETEN: Same objection. That calls 4 for you to reveal your mental impressions, opinions, 5 motivations about legislation. It's a matter of 6 legislative privilege.</p> <p>7 A. I will assert legislative on advice of my 8 attorney.</p> <p>9 Q. (By Mr. Fisher) Who were the main proponents of 10 SB 362?</p> <p>11 MR. SWEETEN: You can -- you can answer 12 that question.</p> <p>13 A. Yeah, I believe Senator Fraser was the author.</p> <p>14 Q. (By Mr. Fisher) Did you speak to Senator Fraser 15 about the bill?</p> <p>16 A. I would assert legislative on that.</p> <p>17 Q. Did you have a communication with Senator 18 Fraser about SB 362 at any time?</p> <p>19 MR. SWEETEN: Hold -- hold on. You can 20 answer whether a communication occurred, the means of 21 communication, the date. You can answer that, just 22 don't reveal the substance of the communication.</p> <p>23 A. Yeah. The only thing I recall, specifically, 24 would have been a conversation. You know, we talked 25 about it. I don't -- I don't recall anything beyond</p>	<p style="text-align: center;">87</p> <p>1 Governor about SB 362? 2 A. Not that I recall. 3 Q. Did you have any communications with 4 legislators who opposed SB 362?</p> <p>5 MR. SWEETEN: You can answer as phrased. 6 A. Yeah, you know, I don't recall anything 7 specific about it but I'm sure, you know, there was a 8 conversation on the Floor at some point or... 9 Q. (By Mr. Fisher) So you did have communications 10 with legislators who opposed SB 362 -- 11 A. I couldn't tell you specifics -- 12 Q. Let me -- let me finish my question before you 13 answer. 14 You did have communications with 15 legislators who opposed SB 362; is that correct? 16 A. I do not recall a specific conversation, but 17 I'm sure a conversation probably took place. 18 Q. Who were the main opponents to SB 362? 19 A. Every Democrat in the Texas Senate. 20 Q. Are you aware of why they opposed SB 362? 21 MR. SWEETEN: You can answer the 22 question. You can refer to matters of the public 23 record. Don't reveal communications you've had with any 24 individual senators, legislative staff, State agencies, 25 Texas Legislative Council, constituents.</p>
<p style="text-align: center;">86</p> <p>1 that. Could have happened, but I don't recall that. 2 Q. (By Mr. Fisher) So you're not certain if you 3 had a conversation with Senator Fraser; is that correct? 4 A. I'm certain I had a conversation with Senator 5 Fraser on the bill at some point. I do not recall any 6 other communication. 7 Q. Was there anyone else present during that 8 conversation? 9 A. That, I -- I couldn't tell you. It been three 10 and a half years ago. I don't recall if someone was 11 standing there in the room or not. 12 Q. Was SB 362 a priority for others in the Texas 13 government, aside from Senator Fraser? 14 MR. SWEETEN: You can -- you can refer to 15 matters of the public record in answering this 16 question. Don't reveal specific communications you've 17 had with any legislators, staff, or other groups. 18 A. Yeah. I think it would be fair to say on the 19 -- you know, on the public record, you know, various 20 officials have stated their -- their support of this 21 legislation. 22 Q. (By Mr. Fisher) Various officials like you? 23 A. I think the -- I think the Governor has been on 24 public record in support of it. 25 Q. Did you have any communications with the</p>	<p style="text-align: center;">88</p> <p>1 A. Yeah, I would assert legislative privilege on 2 those conversations. And I'm not aware of specifically 3 anything anyone said publicly. I'm sure they have 4 spoken out against it, but I don't -- I don't know of 5 anything specifically. 6 Q. (By Mr. Fisher) So just to summarize: You're 7 not aware of why those who opposed, and as you mentioned 8 every Democrat in the Senate opposed SB 362, and you're 9 not aware of why they opposed it; is that correct? 10 MR. SWEETEN: Objection to the extent that 11 it would call for him to reveal communications with 12 legislators on legislative staff. 13 Once again, you can refer to matters on 14 the public record in answering that question. 15 A. Yeah, I assert legislative privilege on the 16 personal conversation and I just don't recall specifics 17 about -- 18 Q. (By Mr. Fisher) Are you aware of any public 19 debate regarding that issue? 20 MR. SWEETEN: You can answer. 21 A. Yeah, I'm aware of public debate on the issue 22 but not specifics of it. 23 Q. (By Mr. Fisher) Do you know how the minority 24 members of the Senate felt about SB 362? 25 MR. SWEETEN: Don't reveal any</p>

<p style="text-align: center;">89</p> <p>1 communications you've had with legislators or 2 legislative staff in answering this question. You can 3 reveal further matters of the public record in doing so.</p> <p>4 A. Yeah, on the record, based on their objection 5 on the Senate Floor, they were not supportive of the 6 bill.</p> <p>7 Q. (By Mr. Fisher) So you've stated that every 8 Democrat in the Texas Senate was opposed to SB 362. 9 You've stated that the minority members of the Texas 10 Senate were opposed to SB 362. Why do you think there 11 was such strong opposition to SB 362?</p> <p>12 MR. SWEETEN: Don't reveal communications 13 you've had with those individuals. You can further 14 answer to the public record.</p> <p>15 Also, the question calls for speculation.</p> <p>16 A. Yeah, I -- yeah, I'm not going to speculate.</p> <p>17 Q. (By Mr. Fisher) Speculation's fine. That's 18 what we're here for.</p> <p>19 MR. SWEETEN: No, we're not here for 20 speculation.</p> <p>21 A. I'm not going to speculate on why they would be 22 opposed to it. I mean, I -- and I -- and I would assert 23 legislative privilege on any conversations we've had 24 about it.</p> <p>25 Q. (By Mr. Fisher) Do you place any significance</p>	<p style="text-align: center;">91</p> <p>1 public role -- and the record would reflect my public 2 role. I believe it was limited to asking a question 3 potentially of a witness. But I -- the record would 4 reflect whatever my public role was. It was not 5 significant.</p> <p>6 Q. (By Mr. Fisher) During the Floor consideration 7 of SB 362, do you remember anyone raising concerns about 8 its impact on minority voters?</p> <p>9 MR. SWEETEN: You can answer. It's about 10 the Floor consideration, public.</p> <p>11 A. Yes, I -- I don't recall the specifics, but I 12 think in general that would -- would have been the 13 objection.</p> <p>14 Q. (By Mr. Fisher) Do you remember -- what would 15 have been the objection?</p> <p>16 A. What you just said, that the objection on the 17 record on the Senate Floor was the concern by the 18 Democrats who opposed the bill, that it would impact 19 certain voters. I don't remember the specifics but.</p> <p>20 Q. Minority voters; is that correct?</p> <p>21 A. Yeah, I -- I would -- the record would reflect 22 that, but I think that would probably be an accurate 23 statement that that's what the record would reflect -- 24 would reflect.</p> <p>25 Q. What was your response to those concerns?</p>
<p style="text-align: center;">90</p> <p>1 on the unified opposition of all the minority members in 2 the Senate to SB 362?</p> <p>3 A. Can you read that question back? I don't know 4 that I heard the whole thing.</p> <p>5 Q. Do you place any significance on the unified 6 opposition of all minority members in the Senate to SB 7 362?</p> <p>8 MR. SWEETEN: Yeah, that would require you 9 to reveal your thoughts, mental impressions, opinions or 10 motivations about legislation, specifically here 362; 11 therefore, it calls for matters of -- also it could 12 reveal -- require you to reveal communication. So I'm 13 going to instruct you not to answer on the basis of 14 legislative privilege.</p> <p>15 A. On the advice of counsel, I assert legislative 16 privilege.</p> <p>17 Q. (By Mr. Fisher) What was your role during the 18 Floor consideration of SB 362?</p> <p>19 MR. SWEETEN: Are you talking about his 20 public role?</p> <p>21 MR. FISHER: Yes.</p> <p>22 MR. SWEETEN: He can testify about his 23 public role.</p> <p>24 A. As I best recall, it's been some time, I 25 believe we had 26 hours of testimony. I believe my</p>	<p style="text-align: center;">92</p> <p>1 MR. SWEETEN: If you're talking about his 2 public response on the Floor, he can answer that. As 3 far as his response with respect to the legislation, he 4 -- that would be privileged, so.</p> <p>5 A. You'd have to check the record, but I -- again, 6 I think out of the 26 hours on the record, I -- I don't 7 think I participated more than maybe 10 minutes. And I 8 think that was an answer to your question. I stand to 9 be corrected if the record -- if the record reflects my 10 memory differently. But I didn't have a role of any 11 significance whatsoever in the debate on the Floor.</p> <p>12 Q. (By Mr. Fisher) Did you have a reaction to 13 those concerns?</p> <p>14 MR. SWEETEN: Yeah, don't reveal your 15 thoughts, your mental impressions, your opinions or 16 motivations about legislation.</p> <p>17 THE WITNESS: Yeah.</p> <p>18 MR. SWEETEN: That's legislatively 19 privileged.</p> <p>20 A. Yeah, I would assert legislative privilege on 21 that.</p> <p>22 Q. (By Mr. Fisher) If you have unified opposition 23 of minority members of the Senate and Democratic members 24 of the Senate with regard to a bill, does that give you 25 any pause with regard to your support of that bill?</p>

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1 MR. SWEETEN: Yeah, I think you're asking
 2 him to reveal his mental impressions, his thoughts, his
 3 opinions, or motivation about legislation and I think
 4 that's subject to the legislative privilege.

5 Instruct you not to answer.

6 A. Yeah, I assert legislative on the advice of
 7 counsel.

8 Q. (By Mr. Fisher) I'm going to hand you what will
 9 be marked Exhibit 161.

10 (Exhibit 161 marked for identification.)

11 Q. (By Mr. Fisher) So it's a three -- three-page
 12 document titled "Transcript of Proceedings before the
 13 Senate of the State of Texas, 81st Legislature,
 14 Committee of the Whole." And that's the first
 15 page. And this is an excerpted document, so you have
 16 Pages 646 through 653. The date on it is March 11,
 17 2009; is that correct?

18 A. Yes.

19 Q. Do you recognize this document?

20 A. I haven't seen this before but I recognize
 21 documents similar to this transcript.

22 Q. Do you remember the hearing that this document
 23 memorialized?

24 A. I do.

25 Q. Okay. If I could direct your attention to the

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1 it specifically but do I recall this -- I do recall this
 2 witness.

3 Q. Well, let me be clear, this isn't the entire
 4 transcript of the hearing. This is a portion of it --

5 A. Right.

6 Q. -- so this might not reflect all of your
 7 participation in the hearing. Understood?

8 A. Yes. I believe it does, but the record would
 9 reflect that.

10 Q. Did you have any additional evidence outside of
 11 the context of this hearing that people voted on behalf
 12 of dead people?

13 MR. SWEETEN: Yeah, that would require him
 14 to reveal his thoughts, mental impressions, opinions or
 15 motivations about the legislation. So a matter of
 16 legislative privilege.

17 A. Yeah, I -- I assert legislative privilege on
 18 that.

19 Q. (By Mr. Fisher) Okay, you're asserting
 20 legislative privilege on the advice of your counsel with
 21 regard to that question?

22 MR. SWEETEN: You can refer to matters on
 23 the public record, but don't reveal privileged matters.

24 A. Yeah.

25 Q. Had you done any studies or analysis of this

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1 second page of the document, on Page 648, and you'll see
 2 your name there. And if you could read your response
 3 contained there, please.

4 A. Okay, let me read it. I'm going to read it
 5 from the top so I can see what led into this.

6 Q. Oh, please.

7 A. (Reading) How far do you want me to read?

8 Q. Just page -- I just wanted to read after your
 9 name on 648. To extent you need more context, that's
 10 fine.

11 A. Yeah, I do. I wanted to see what the context
 12 was. Okay.

13 Q. Are you ready, Senator?

14 A. No. I'm just now reading my -- if you'd give
 15 me a moment. Okay, I haven't read it all, but I'm ready
 16 to -- if you want to ask me something.

17 Q. Do you remember making the statement, "Let me
 18 -- excuse me, I didn't ask that question. The question
 19 was our last witness clearly indicated proof that people
 20 voted on behalf of dead people. So don't sit there and
 21 say there's been no evidence."

22 A. I didn't remember it until I read it here. But
 23 I think this accurately reflects my earlier testimony
 24 that of 26 hours I was not much of a participant. This
 25 probably lasted about two minutes, so. I didn't recall

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1 matter of people voting on behalf of dead people?

2 MR. SWEETEN: Same objection.

3 Don't reveal your thoughts, mental

4 impressions, opinions or motivations about legislation
 5 or communications that were outlined previously. Those
 6 are matters subjective to legislative privilege.

7 A. Not that I recall.

8 Q. (By Mr. Fisher) So your answer is not that you
 9 recall --

10 A. Yeah, I --

11 Q. -- as far as studies and analysis of the
 12 matter; is that correct?

13 MR. SWEETEN: Well, my instruction is
 14 don't reveal matters that are subject to the legislative
 15 privilege. You're thoughts, mental impressions,
 16 opinions or motivations about legislation. Okay?

17 THE WITNESS: Yeah.

18 A. Yeah, I do not recall doing a study on that
 19 issue.

20 Q. (By Mr. Fisher) Outside of the context of the
 21 witness that you have mentioned here, in your testimony,
 22 do you recall anything else in the public record of this
 23 hearing supporting the fact that people voted on behalf
 24 of dead people?

25 MR. SWEETEN: He can answer because --

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1 A. Yeah, I don't -- I don't recall even who the
 2 witness was before this that we were talking about, but
 3 that's what I recall. I mean, I'm looking at the
 4 record.

5 Q. (By Mr. Fisher) What you recall is this -- is
 6 this one witness you referred to here; is that correct?

7 A. Correct.

8 Q. Do you recall anything beyond this one witness
 9 that you referred to here?

10 MR. SWEETEN: On the public record?

11 MR. FISHER: Correct.

12 MR. SWEETEN: Okay. You can answer.

13 A. Yeah, I don't.

14 Q. (By Mr. Fisher) You do not?

15 A. Nuh-uh.

16 Q. Had you ever heard of any investigations for
 17 this type of activity, that is, people voting on behalf
 18 of dead people?

19 MR. SWEETEN: Okay. If the question would
 20 ask you to reveal any communications you've had with
 21 senators, legislative staff or other members, don't
 22 reveal that. Also don't reveal thoughts, mental
 23 impressions, opinions or motivations about legislation
 24 in answering the question. You can refer to matters of
 25 the public record.

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1 A. Yeah. Your question was? I'm sorry, I hate to
 2 make you repeat it, but...

3 Q. (By Mr. Fisher) Had you heard of any
 4 investigations for this type of activity, that is,
 5 people voting on behalf of dead people?

6 MR. SWEETEN: Same instruction.

7 A. Not that I recall.

8 Q. (By Mr. Fisher) So you had not heard of any
 9 public information regarding investigations into people
 10 voting on behalf of dead people?

11 A. Not that I recall.

12 Q. Convictions for that type of activity?

13 MR. SWEETEN: Object --

14 Q. (By Mr. Fisher) And convictions are public
 15 knowledge.

16 MR. SWEETEN: Objection to the question.

17 Again, you can refer to matters of the
 18 public record but don't reveal your thoughts, your
 19 mental impressions about legislation or communications
 20 you've had. Those are subject to the privilege.

21 Q. (By Mr. Fisher) Just to clarify, Senator, I
 22 asked about convictions. So a conviction would be
 23 something that's part of the public record.

24 MR. SWEETEN: Well, but you're asking him
 25 did he consider convictions. And that reveals his

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1 mental impressions and opinions. So, again, he can
 2 testify as to what was on the public record, what was
 3 stated.

4 But don't reveal your mental impressions
 5 or thought process with respect to that.

6 THE WITNESS: Right.

7 A. And I did not hear you say "consider," so.

8 Q. (By Mr. Fisher) That's because I didn't.

9 Senator, have you heard of any convictions
 10 of this type of activity of people voting on behalf of
 11 dead people?

12 MR. SWEETEN: You can refer to matters of
 13 the public record.

14 A. Yeah, earlier I testified that I believed there
 15 was something on the public record about conviction, but
 16 I can't -- I think I also testified that I didn't know
 17 exactly what that public record was. So, I can't recall
 18 specifically the issue that you just asked me about.

19 Q. (By Mr. Fisher) So if we turn to Page -- and
 20 this is the same exhibit that's been marked as 161. If
 21 we turn to Page 651, Senator, which is the third page of
 22 this document.

23 A. Yes, I see it, uh-huh.

24 Q. And you'll see your name on Page 651 and I'd
 25 like to read what's after your name there and then to

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1 the extent that you need to read any more to provide you
 2 context, then please -- please do that as well.

3 A. (Reading) Yes. Okay, I've read it.

4 Q. Okay. So to the extent that your statement
 5 "Oh, I can -- oh, I can assure you I meet with hundreds,
 6 thousands, I talk with them, I know my district, I'm
 7 very well connected to the people in my district. And
 8 the seniors of my district, who are members of the AARP,
 9 support this bill. Thank you."

10 Did you really speak to hundreds or
 11 thousands of constituents about SB 362?

12 MR. SWEETEN: If -- I think you're
 13 misstating the -- the record. So misstates the facts
 14 and assumes facts not in evidence in the question.

15 You can reveal whether or not you had
 16 communications with individuals. Don't reveal the
 17 substance of those if they're constituents.

18 THE WITNESS: Right.

19 A. Your question, do -- have I met with hundreds
 20 or thousands?

21 Q. (By Mr. Fisher) Let's start with thousands.

22 Did you meet with thousands of constituents in which the
 23 issue of SB 362 came up?

24 A. I think that would be a fairly accurate
 25 statement because I'm involved in -- in a number of

<p style="text-align: center;">101</p> <p>1 events. I can't tell you when and where but, I mean, 2 events where large numbers of people show up and I 3 represent a district of a million people. And I do lots 4 of speeches and talk to people. And lots of times 5 there's two hundred in a group, and you do two of those 6 a week. So I think that's an accurate statement that, 7 over time, I've met with hundreds of thousands -- 8 hundreds -- not of thousands -- hundreds or thousands of 9 people over a period of time. I think that's close to 10 accurate.</p> <p>11 Q. So if you could explain this statement further, 12 are you saying that these thousands that you've met with 13 express support for SB 362?</p> <p>14 MR. SWEETEN: You can reveal whether or 15 not you've had communications with constituents. I'm 16 going to let you do that. But to the extent he's asking 17 you to reveal your mental impressions, your thoughts, or 18 opinions about legislation, you know, don't do that or -- or the specifics of communications that you've had 20 with individuals. So do you understand the instruction?</p> <p>21 THE WITNESS: Yes.</p> <p>22 MR. SWEETEN: Okay.</p> <p>23 THE WITNESS: I hope so.</p> <p>24 A. I think I can answer this clearly. That this 25 issue is strongly supported by the people that I</p>	<p style="text-align: center;">103</p> <p>1 A. A public statement? You're talking about this? 2 Q. I'm talking about Exhibit 161 -- 3 A. Correct. 4 Q. -- and your statement that I directed you to on 5 Page 651; is that right?</p> <p>6 A. Correct.</p> <p>7 Q. Okay. And in this statement you say, "I meet 8 with hundreds, thousands, I talk with them, I know my 9 district, I'm very well connected to the people in my 10 district. And the seniors of my district, who are 11 members of the AARP, support this bill. Thank you." Is 12 that correct? Did I read the language correctly?</p> <p>13 A. You're correct.</p> <p>14 Q. Did you speak with thousands of constituents 15 about SB 362?</p> <p>16 MR. SWEETEN: Objection, asked and 17 answered.</p> <p>18 You can answer.</p> <p>19 A. Yeah, I did not speak to thousands, 20 specifically, on this bill. I have spoken to hundreds 21 or thousands of my constituents over time.</p> <p>22 Q. And those hundreds and thousands support SB 23 362; is that correct?</p> <p>24 A. At the time when this bill was the legislation 25 to address the issue of photo voter ID, there was</p>
<p style="text-align: center;">102</p> <p>1 represent in Senate District 7, when I have met with 2 them.</p> <p>3 Q. And by "issue," you mean?</p> <p>4 A. Photo voter ID.</p> <p>5 Q. (By Mr. Fisher) Photo voter ID, you said was an 6 issue that's strongly supported by the members of your 7 district in District 7. Is that specific to SB 362 or 8 is that as a general matter?</p> <p>9 MR. SWEETEN: The question asks you 10 matters that are subject to the legislative privilege. 11 Because what he's asking you is to characterize whether 12 there's support for a specific bill. You can testify as 13 to whether you had communications. I've allowed that to 14 go on. But I don't want you to testify as to general 15 support or your legislative thought process as you're 16 working a bill. So you can answer to the extent you're 17 not, you know, discussing support. You can talk about 18 whether you've had conversations with individuals. 19 That's how I believe that's subject to the 20 legislative privilege.</p> <p>21 A. I assert legislative on the specific bill in 22 terms of -- of what people have said.</p> <p>23 Q. (By Mr. Fisher) But, Senator, right now we're 24 talking about a public statement with regard to SB 362; 25 is that correct?</p>	<p style="text-align: center;">104</p> <p>1 support for that issue. People don't know what a bill 2 number is. People don't know specific legislation. But 3 they support the issue.</p> <p>4 Q. Did you conduct a survey of the members in your 5 district on this matter?</p> <p>6 MR. SWEETEN: Objection. I think that 7 calls for him to reveal his mental impressions, 8 opinions, motivation about legislation or in furtherance 9 of the legislative process. And I think this matter is 10 legislative.</p> <p>11 He can, again, let him discuss whether or 12 not he's had conversations, that's fine.</p> <p>13 A. Yeah. There may or may not be a public 14 statement or question or poll. I don't recall 15 specifically if I have done that or not. Could be. I 16 just -- I don't -- I don't know. From time to time we 17 poll people, it's public record, but I can't tell you 18 what year and what question.</p> <p>19 Q. (By Mr. Fisher) Do you have the records 20 regarding the communications you had with hundreds, 21 thousands of people in your district who support or 22 supported SB 362?</p> <p>23 MR. SWEETEN: You can answer as to whether 24 or not you have records.</p> <p>25 A. Yeah. If we asked that question in a poll, we</p>

<p style="text-align: center;">105</p> <p>1 would have a record of that.</p> <p>2 Q. (By Mr. Fisher) Did you speak to any seniors</p> <p>3 who did not support this bill?</p> <p>4 MR. SWEETEN: You can answer.</p> <p>5 A. Not that I recall.</p> <p>6 Q. (By Mr. Fisher) So you've spoken to hundreds</p> <p>7 and thousands of people in your district and not one has</p> <p>8 expressed a dissenting voice regarding this bill?</p> <p>9 MR. SWEETEN: Objection, the question is</p> <p>10 not limited to time, scope.</p> <p>11 A. Yeah.</p> <p>12 Q. (By Mr. Fisher) When SB 362 was being</p> <p>13 considered -- let me rephrase.</p> <p>14 A. And let me be clear when I say that I speak to</p> <p>15 hundreds or thousands, that is not a personal one-on-one</p> <p>16 conversation, that's a group presentation. It may be</p> <p>17 personal conversations but it's primarily speeches and</p> <p>18 going to meetings and where you don't specifically talk</p> <p>19 to every person. So I do not recall. I do not recall.</p> <p>20 It could have happened. I don't recall a person ever</p> <p>21 coming to me and not being supportive of that.</p> <p>22 Q. When you meet with large groups of people,</p> <p>23 meaning hundreds or thousand of people, how do you know</p> <p>24 that they support what it is that you're discussing?</p> <p>25 A. They usually tell me, applaud, say they don't</p>	<p style="text-align: center;">107</p> <p>1 and answer to the extent.</p> <p>2 MR. FISHER: Yeah.</p> <p>3 MR. SWEETEN: That's just my objection to</p> <p>4 the question. I think it mischaracterizes what -- the</p> <p>5 testimony.</p> <p>6 But you go ahead and answer to the extent</p> <p>7 you can answer.</p> <p>8 A. I meet with small/large groups of people that</p> <p>9 total up hundreds or thousands. During that period of</p> <p>10 time, I do not recall. It could have been, but I don't</p> <p>11 recall any significant or any objection to this</p> <p>12 legislation, I just don't recall it.</p> <p>13 Q. (By Mr. Fisher) But if you're meeting a large</p> <p>14 group of people, how would that -- how would such an</p> <p>15 objection be lodged?</p> <p>16 A. Someone would say they object.</p> <p>17 Q. Has that ever happened before?</p> <p>18 A. As I said, I don't recall anyone ever raising</p> <p>19 their hand or coming up to me afterwards and saying,</p> <p>20 "Senator, I don't support this bill." I just don't</p> <p>21 recall.</p> <p>22 Q. Has that happened in the context of other</p> <p>23 bills?</p> <p>24 A. Oh, yes. Yes.</p> <p>25 Q. So in this bill, you never did encounter</p>
<p style="text-align: center;">106</p> <p>1 support it. I mean, it's like any other communication</p> <p>2 in life when you speak to group, they usually indicate</p> <p>3 their preference.</p> <p>4 Q. Is it fair to say in a large group setting like</p> <p>5 that, you would be unsure if there was someone who</p> <p>6 didn't support the bill sitting in the meeting?</p> <p>7 A. That's -- that would always be possible.</p> <p>8 Q. So is it fair to say that your statement on</p> <p>9 Page 651 is either a mischaracterization or a -- it's a</p> <p>10 -- is a mischaracterization of the facts?</p> <p>11 A. No, because I don't recall anyone that ever</p> <p>12 being -- not supportive of it. I don't recall that.</p> <p>13 Q. But you said that the support that you</p> <p>14 described here is based upon meetings with large groups</p> <p>15 of individuals; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And the support that you've described here is</p> <p>18 not based upon one-on-one meetings with hundreds and</p> <p>19 thousands of your constituents; is that correct?</p> <p>20 MR. SWEETEN: That mischaracterizes his</p> <p>21 testimony.</p> <p>22 But go ahead. You can answer it.</p> <p>23 THE WITNESS: How did it mischaracterize</p> <p>24 my testimony?</p> <p>25 MR. SWEETEN: Well, you -- you go ahead</p>	<p style="text-align: center;">108</p> <p>1 opposition during a large group meeting, but in other</p> <p>2 contexts, you have; is that correct?</p> <p>3 A. Yes.</p> <p>4 Q. Did you speak specifically to any racial</p> <p>5 minorities in your district with regard to SB 362?</p> <p>6 MR. SWEETEN: You can answer as to whether</p> <p>7 you spoke with.</p> <p>8 A. Did I speak to the issue of racial minorities</p> <p>9 or to racial minorities?</p> <p>10 Q. (By Mr. Fisher) Did you speak to racial</p> <p>11 minorities in your district with regard to the issue of</p> <p>12 SB 362?</p> <p>13 A. People are invited to our meeting, I don't -- I</p> <p>14 don't look at the audience to see the makeup of the</p> <p>15 audience, so I would assume, yes, and that's the best</p> <p>16 way I can answer that question.</p> <p>17 Q. Is it fair to say, then, that you didn't</p> <p>18 specifically seek out racial minorities to speak to</p> <p>19 about the issue of the SB 362?</p> <p>20 MR. SWEETEN: You're asking about his</p> <p>21 thought processes and his mental impressions and</p> <p>22 opinions, motivations about legislation or in</p> <p>23 furtherance of legislative processes to whether he</p> <p>24 sought out someone. So I think that that implicates</p> <p>25 matters of legislative privilege.</p>

DAN PATRICK

May 30, 2012

<p style="text-align: center;">109</p> <p>1 Q. (By Mr. Fisher) Senator?</p> <p>2 A. I'm just -- I'm trying to think how to answer</p> <p>3 your question.</p> <p>4 MR. SWEETEN: Yeah, I'm -- I'm going to</p> <p>5 object to --</p> <p>6 A. Yeah, I -- I think I would assert privilege --</p> <p>7 MR. SWEETEN: -- and I instruct you not to</p> <p>8 answer.</p> <p>9 Q. (By Mr. Fisher) Are you asserting on the basis</p> <p>10 of advice from your counsel?</p> <p>11 A. Yes.</p> <p>12 MR. SWEETEN: And just to be clear: He</p> <p>13 will answer whether or not he's had specific -- and I</p> <p>14 think he has had specific discussions with my minority</p> <p>15 voters. He can testify about whether communications</p> <p>16 occurred, means, date.</p> <p>17 Q. (By Mr. Fisher) Did any of the seniors you</p> <p>18 identified in your statement tell you they might not</p> <p>19 have the kinds of identification required by SB 362?</p> <p>20 MR. SWEETEN: I'm sorry. Can you -- can</p> <p>21 you read the question back, please?</p> <p>22 (Requested portion was read back by the</p> <p>23 court reporter.)</p> <p>24 MR. SWEETEN: Yeah, I think you're asking</p> <p>25 about specific conversations he had with constituents.</p>	<p style="text-align: center;">111</p> <p>1 Q. (By Mr. Fisher) Did you have any meetings with</p> <p>2 minority groups concerning SB 362?</p> <p>3 MR. SWEETEN: You can answer as phrased.</p> <p>4 A. I do not recall having any specific meetings on</p> <p>5 Senate Bill 362 with any group.</p> <p>6 Q. (By Mr. Fisher) I'm going to hand you the next</p> <p>7 exhibit which will be 162.</p> <p>8 (Exhibit 162 marked for identification.)</p> <p>9 Q. (By Mr. Fisher) So this is a similar three-page</p> <p>10 document, similar to the last one you looked at, titled</p> <p>11 "Transcript of Proceedings before the State -- Senate of</p> <p>12 the State of Texas, 81st Legislature, Committee of the</p> <p>13 Whole Senate," and this is excerpted Pages 694 through</p> <p>14 701.</p> <p>15 A. Okay.</p> <p>16 Q. So do you remember the portion of the hearing</p> <p>17 that this -- that this document memorializes?</p> <p>18 A. This, I don't remember but I'll have to...</p> <p>19 Q. Okay. I'll direct your attention to Page 697,</p> <p>20 please.</p> <p>21 A. All right.</p> <p>22 Q. And you'll see that you have a response there,</p> <p>23 where you start out by saying, "Thank you,</p> <p>24 Mr. Chairman."</p> <p>25 A. Yes, I see that.</p>
<p style="text-align: center;">110</p> <p>1 I think that is covered by the legislative privilege.</p> <p>2 I instruct you not to answer to the</p> <p>3 specifics.</p> <p>4 If you want to ask about the general</p> <p>5 subject matter which is something the Court has allowed,</p> <p>6 I'll allow him to do that.</p> <p>7 A. I'll assert legislative privilege on the advice</p> <p>8 of counsel.</p> <p>9 Q. (By Mr. Fisher) Did you have any general</p> <p>10 conversations with seniors regarding the types of</p> <p>11 identification required by SB 362?</p> <p>12 MR. SWEETEN: You can answer as phrased.</p> <p>13 A. I don't recall that I went down the list of</p> <p>14 specific identification under the bill. That I don't</p> <p>15 recall.</p> <p>16 Q. (By Mr. Fisher) Would it surprise you if</p> <p>17 seniors in your district did not have the identification</p> <p>18 required by SB 362?</p> <p>19 MR. SWEETEN: You're now asking his -- to</p> <p>20 reveal his thoughts, his mental impressions, his</p> <p>21 opinions, motivation about legislation and the</p> <p>22 legislative process.</p> <p>23 Therefore, I'm going instruct you that</p> <p>24 that is a matter covered by legislative privilege.</p> <p>25 A. Then I would assert legislative privilege.</p>	<p style="text-align: center;">112</p> <p>1 Q. You see that?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Okay. Would you take a look at that for me.</p> <p>4 A. Yeah. Let me read that. (Reading.) Yes, I</p> <p>5 have read it.</p> <p>6 Q. (By Mr. Fisher) So at the time you were</p> <p>7 considering SB 362, did you have any specific examples</p> <p>8 of someone actually doing what you've described on Page</p> <p>9 697?</p> <p>10 MR. SWEETEN: Okay. Don't reveal your</p> <p>11 thoughts, mental impressions, opinions or motivation</p> <p>12 about legislation or the legislative process. Don't</p> <p>13 reveal communications you've had with legislators,</p> <p>14 legislative staff, TLC, state agencies or constituents</p> <p>15 in answering the question. You can refer to matters of</p> <p>16 the public record.</p> <p>17 A. Yeah, I don't -- I don't recall.</p> <p>18 Q. (By Mr. Fisher) Are you asserting legislative</p> <p>19 privilege over that question, or you don't recall an</p> <p>20 answer? You don't recall an answer to the question?</p> <p>21 A. I don't -- I don't recall. I mean, I'm</p> <p>22 answering the question. I -- I just don't recall.</p> <p>23 Q. So you don't recall any support for your</p> <p>24 statement on Page 697; is that correct?</p> <p>25 MR. SWEETEN: Objection.</p>

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1 It calls for you to reveal matters subject
 2 to the legislative privilege. I instruct you only to
 3 answer with respect to the matters of the public record.
 4 A. So I'll assert legislative privilege. I
 5 answered your question.

6 Q. (By Mr. Fisher) Are you aware of any cases like
 7 this ever happening in Texas, based on public
 8 information?

9 MR. SWEETEN: Same objection.
 10 You can refer to matters of the public
 11 record though.

12 A. Yeah, I'll assert legislative privilege on
 13 that.

14 Q. (By Mr. Fisher) So you'll assert legislative
 15 privilege over whether you're aware of any public
 16 information that supports your statement on Page 697 of
 17 this transcript; is that correct?

18 MR. SWEETEN: Again, you know, with
 19 respect to the legislative privilege, don't reveal
 20 thoughts, mental impressions, your motivation about
 21 legislation or the legislative process. You can answer
 22 with respect to matters that are on the public record.

23 A. Yeah, I think you said public record the second
 24 time. I'm not so sure you said it in the question the
 25 first time. So if you want to just clarify.

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1 MR. FISHER: Can you read it back, please.
 2 (The requested portion was read by the
 3 court reporter.)

4 A. Okay, I -- I did not recall you saying public
 5 statement in your first question. If you're asking me
 6 do I recall anything that's a public statement, I don't
 7 recall a public statement.

8 Q. (By Mr. Fisher) Are you aware of any public
 9 information that supports your statement on page 697?

10 MR. SWEETEN: Same objection as to
 11 legislative privilege.

12 Don't reveal matters subject to the
 13 legislative privilege. You can reveal matters that are
 14 -- are within the public record.

15 A. Yeah. I don't recall -- I don't recall
 16 anything on the public record.

17 Q. (By Mr. Fisher) Are you aware of any
 18 convictions for the type of activity that you described
 19 on Page 697 of this transcript?

20 MR. SWEETEN: Same instruction.

21 A. Yeah, and I've answered this question before
 22 that I'm aware, in general, that there's been a public
 23 statement about convictions but I'm -- I'm not aware
 24 specifically of what those convictions were for.

25 Q. (By Mr. Fisher) So you mentioned in this

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1 statement you say -- actually, let's move on.

2 Let's move on to Page 698. If you could
 3 take a look at your statement on Page 698.

4 A. All right.

5 Q. So your statement, "The last part of the
 6 question, if you had registrations in the same precinct,
 7 you could go back over a period of multiple days if you
 8 are willing to take that risk and vote. So a person
 9 could vote more than once. I mean, it's not an extreme
 10 thought that someone could register under several
 11 different names."

12 You mentioned taking a risk. What would
 13 that risk be?

14 MR. SWEETEN: Wait a minute. You're
 15 asking -- are you reading still? You mentioned taking a
 16 risk, or is that a question?

17 MR. FISHER: It's a quote from the
 18 document.

19 MR. SWEETEN: Okay. He -- he can testify
 20 about matters on the public record. He's not going to
 21 reveal, based upon the legislative privilege, his
 22 thoughts or his mental impressions about this
 23 legislation or his opinions about it or his motivation
 24 about the legislation. That's subject to the
 25 legislative privilege.

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1 I instruct you not to reveal that
 2 information. You can refer to matters of the public
 3 record.

4 A. I assert public privilege -- I mean,
 5 legislative privilege.

6 Q. (By Mr. Fisher) Legislative privilege over
 7 that?

8 A. Yeah.

9 Q. So, on the public record, you say, "willing to
 10 take that risk and vote." And you assert legislative
 11 privilege over what that risk is; is that correct?

12 MR. SWEETEN: That's correct because he's
 13 -- you're asking him more than what's on the public
 14 record, to reveal his thoughts and mental impressions
 15 about legislation. So he can -- he'll answer as to
 16 whether something occurred on the public record. He can
 17 refer to the public record. But he's not going to
 18 reveal his mental impressions or thoughts that came up
 19 through the legislative process. And you're asking him
 20 to do that.

21 And I instruct not to answer based on
 22 legislative privilege.

23 A. At request of counsel, legislative -- I assert
 24 legislative privilege.

25 Q. (By Mr. Fisher) What does taking a risk mean to

<p style="text-align: center;">117</p> <p>1 you, Senator?</p> <p>2 MR. SWEETEN: Same objection as to -- in</p> <p>3 the context of this statement or if you're asking him to</p> <p>4 explain this statement. That is my instruction, that</p> <p>5 it's legislative privilege.</p> <p>6 If you want to ask as a general matter, as</p> <p>7 he's sitting here, not involved with this legislation,</p> <p>8 what is taking a risk to him, I'll allow him to answer</p> <p>9 that question.</p> <p>10 A. Taking a risk would be doing something illegal.</p> <p>11 Q. (By Mr. Fisher) Is there a criminal penalty for</p> <p>12 the type of activity you describe on Page 698?</p> <p>13 A. I'm not aware if it's criminal or civil or what</p> <p>14 the penalty is, but there is penalty to the best of my</p> <p>15 knowledge, under the law. I'd have to look at the law</p> <p>16 of voting illegally.</p> <p>17 Q. So under the law as it currently stands, there</p> <p>18 is a criminal or civil penalty for the type of activity</p> <p>19 you've described on Page 697 and 698 of this transcript;</p> <p>20 is that correct?</p> <p>21 A. I believe that to be true, but I'd have to look</p> <p>22 at the law.</p> <p>23 Q. Did you receive any complaints concerning this</p> <p>24 type of activity, the type of activity you've described</p> <p>25 on Page 697 or 698?</p>	<p style="text-align: center;">119</p> <p>1 the news that there have been convictions of people who</p> <p>2 have committed voter fraud, whether it's in the last</p> <p>3 twenty years or not I cannot tell you the last date, but</p> <p>4 I believe there have been convictions.</p> <p>5 Q. (By Mr. Fisher) But you're not aware --</p> <p>6 A. Yeah, I can't tell you, specifically, but I</p> <p>7 believe I've read that, I believe.</p> <p>8 Q. Are you aware of any incidents of mail-in</p> <p>9 ballot fraud that have occurred in the state of Texas in</p> <p>10 the last twenty years?</p> <p>11 MR. SWEETEN: Don't reveal thoughts,</p> <p>12 impressions, motivations about legislation or</p> <p>13 communications you've had with any of the groups you've</p> <p>14 outlined previously in answering this question. You can</p> <p>15 refer to matters the public record.</p> <p>16 A. Again, I want to go back the public record. I</p> <p>17 believe I've read that there have been convictions, but</p> <p>18 I could not tell you what they're specifically for.</p> <p>19 Q. (By Mr. Fisher) And by "read," you mean reading</p> <p>20 something in the newspaper or elsewhere? What -- what</p> <p>21 documents are you describing?</p> <p>22 A. I just -- I can't recall exactly but seems to</p> <p>23 me I've read somewhere.</p> <p>24 Q. Any testimony in the public debate that you're</p> <p>25 aware of? Testimony in the Senate?</p>
<p style="text-align: center;">118</p> <p>1 MR. SWEETEN: Don't reveal your</p> <p>2 legislative --</p> <p>3 THE WITNESS: Yeah.</p> <p>4 MR. SWEETEN: -- processes or specific</p> <p>5 subject matters of conversation. You can -- you can</p> <p>6 testify as to whether a communication occurred.</p> <p>7 A. Yeah, I -- I don't -- may have but I don't</p> <p>8 recall. I just I don't recall.</p> <p>9 Q. (By Mr. Fisher) Anything from election</p> <p>10 officials, local election officials in your district?</p> <p>11 MR. SWEETEN: You can reveal</p> <p>12 communications.</p> <p>13 A. May have but I don't -- I don't recall.</p> <p>14 Q. (By Mr. Fisher) Anything from constituents in</p> <p>15 your district?</p> <p>16 A. May have, but I don't recall. I just don't</p> <p>17 recall, but I may have.</p> <p>18 Q. You've mentioned some knowledge in the public</p> <p>19 record about voter fraud in the State of Texas. Are you</p> <p>20 aware of any incidence of in-person voter fraud in the</p> <p>21 state of Texas in the last twenty years based upon the</p> <p>22 public record?</p> <p>23 MR. SWEETEN: You can answer as phrased.</p> <p>24 A. My -- my answer remains the same to that. I</p> <p>25 believe -- I believe that I have read in the news -- in</p>	<p style="text-align: center;">120</p> <p>1 A. I don't recall if that's -- that's where I</p> <p>2 heard it or read it. I just don't recall.</p> <p>3 I'm going to get some ice and keep</p> <p>4 talking.</p> <p>5 MR. SWEETEN: Go ahead.</p> <p>6 Q. (By Mr. Fisher) Senator, what was your role in</p> <p>7 trying to get SB 362 passed?</p> <p>8 MR. SWEETEN: Yeah, I think the question</p> <p>9 asks to him the reveal mental impressions, opinions,</p> <p>10 motivations about legislation in furtherance of the</p> <p>11 legislative process, as well as communications that he's</p> <p>12 had with legislators or legislative staff and any other</p> <p>13 groups and individuals.</p> <p>14 You can refer to matters of the public</p> <p>15 record.</p> <p>16 A. You know, my public record is that I voted in</p> <p>17 favor of it.</p> <p>18 Q. (By Mr. Fisher) Did you have any role, once SB</p> <p>19 362 was referred to the House, in ensuring its passage?</p> <p>20 MR. SWEETEN: Same objection. Calls for</p> <p>21 matters of legislative privilege.</p> <p>22 You can testify about matters of the</p> <p>23 public record.</p> <p>24 A. Yeah. I don't think there's any public record</p> <p>25 of that.</p>

<p style="text-align: center;">125</p> <p>1 Q. If you need to make a specific amendment to 2 your statements about reviewing and editing newsletters, 3 please let me know in the context of another newsletter. 4 A. Okay. 5 Q. So I direct your attention to the second page 6 of this document, and it says -- 7 A. Yes. 8 Q. -- "Key Policy Initiatives for the 2011 9 Session." 10 A. Yes. 11 Q. And you'll notice that one of these is voter 12 ID. If you could read that paragraph there, please? 13 A. (Witness reading.) Okay. I've read it. 14 Q. Okay. And what does that paragraph describe? 15 A. It describes the fact that Senate bill in 2009 16 which I'm -- I guess was Senate Bill 362, did not pass 17 in the House, as we looked earlier on the record when we 18 looked at the House record. 19 And then in 2011, we must take up the 20 fight for increased election integrity. What it says 21 here. And that this issue is supported by over 70 22 percent of Texans. And that I will, you know, fight 23 just as hard to protect the integrity of our electoral 24 process in 2011. 25 Q. Okay. You're basically reading --</p>	<p style="text-align: center;">127</p> <p>1 A. Yeah. I would assert legislative privilege. 2 It reads clearly. 3 Q. (By Mr. Fisher) What did you want the folks 4 that you were circulating this newsletter to, to take 5 away from your discussion of voter ID in this paragraph? 6 A. That this bill is important. 7 Q. What bill, Senator? 8 A. That the voter ID bill is important to them, 9 it's important to me, and I will try to pass it. 10 Q. And by voter ID bill, are you referring to SB 11 362, Senator? 12 A. Well, in the future, it would be a different -- 13 it could take a different form. It could be a Senate 14 bill. It could be a House bill. But that a bill that 15 would address the issue of photo ID would be an 16 important bill. 17 Q. Senator Patrick, were you involved in the 18 development of SB 14 in the 2011 session? 19 A. I was not. 20 Q. You were not involved in the development of SB 21 14; is that correct? 22 A. Correct. Not -- let me -- not in any 23 substantial way whatsoever. 24 Q. Were you the author of SB 14? 25 A. I'd have to check the record if I was a -- I'd</p>
<p style="text-align: center;">126</p> <p>1 A. Yes. 2 Q. -- the document? 3 A. Yes. 4 Q. Is it fair to say that taking up the fight for 5 increased election integrity was a priority of yours in 6 the 2011 session? 7 A. It was a priority for the people, and so 8 therefore, it was a priority of mine. 9 Q. But so we have four items listed under "Key 10 Policy Initiatives for the 2011 Session." We have 11 immigration, voter ID, sonogram and school finance 12 reform. So is it fair to say that these four were the 13 key issues for you for the 2011 session? 14 A. Yes. 15 Q. You mention that you fought hard to pass the 16 voter identification bill out of the Senate, and as you 17 just stated, you are referring to SB 362 there in 18 2009. And that ultimately it died in the House. Was 19 that a disappointment for you? 20 MR. SWEETEN: I think you're asking him to 21 reveal his mental impressions, opinions, motivation 22 about legislation. He can answer as to what his -- with 23 respect to the statement in the public statement that 24 was made, but in answering questions, don't reveal your 25 thoughts about the legislation or legislative process.</p>	<p style="text-align: center;">128</p> <p>1 have to check the record. We have several 2 classifications, as I mentioned earlier, author, joint 3 author, coauthor, sponsor, cosponsor, so I'd have to 4 check the record. I was either, I believe, either a 5 joint author or a coauthor. 6 Q. Would it surprise you if you were the author of 7 SB 14? 8 A. Yes. That would surprise me. 9 Q. Would it surprise you if you were a cosponsor 10 of SB 14? 11 A. Yes. Because I don't think that would be the 12 accurate description. 13 Q. What does an author of a bill in the Senate do? 14 A. The author of a bill is generally recognized as 15 the -- is the primary person behind the legislation who 16 writes the legislation, who -- who shepherds the 17 legislation through the process, who files -- the author 18 is usually the person who files the bill. 19 Some bills have one author. Some bills 20 have -- it's usually joint authors. I'd have to check 21 the rules. I don't think you can have two authors on a 22 bill. I think there's one author and joint authors. 23 That's why I would be surprised because it's Troy 24 Fraser's bill. But I may have been a joint author or 25 coauthor.</p>

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1 Q. So your testimony is that you might have been a
 2 joint author or a coauthor of SB 14; is that correct?
 3 A. I believe I was one of the two, but I'd have to
 4 check the record.
 5 Q. Didn't you just say that it would surprise you
 6 if you were an author of SB 14; is that correct?
 7 A. I interpreted your question directly as the
 8 author. You didn't ask me if it would surprise me if I
 9 was a joint author or coauthor, but you asked me if I
 10 would be surprised if I was an author. And I would be
 11 surprised if I were just an author.
 12 Q. I'm going to hand you what's been marked
 13 previously as Exhibit 8. And I'm going to hand that to
 14 you now.
 15 A. Sure.
 16 Q. If you could take a look at the designations
 17 here. So in the upper left-hand corner, we have 'Texas
 18 Legislature Online History, Bill SB 14, Legislative
 19 Session 82-R.' And Senator, if you would look at
 20 author, is your name listed there as an author of SB 14?
 21 A. It is. I think this is incorrect. I could be
 22 wrong. There may have been a special exception for this
 23 that I don't recall allowing everyone to be an
 24 author. But normally, you would have an author and
 25 everyone else would be a coauthor. But I could be

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1 have been Senator Fraser. But if there was a special
 2 accommodation made so that everyone could be author,
 3 then that may have been made. I just didn't remember
 4 that.
 5 Q. (By Mr. Fisher) Did you seek a special
 6 accommodation with regard to SB 14's authorship?
 7 MR. SWEETEN: You can testify about
 8 matters of the public records, or if there's a matter.
 9 A. Yeah. I would assert legislative privilege on
 10 that. By I stand on my testimony, I just don't recall.
 11 This is somewhat surprising that everyone is listed as
 12 an author to me.
 13 Q. (By Mr. Fisher) So do you see SB 14, as you're
 14 looking at it now, with regard to the legislative
 15 history as being different from other bills with regard
 16 to the authorship?
 17 A. If everyone was listed as an author, that is --
 18 that is different from the norm.
 19 Q. Can you look at the cosponsor designation, and
 20 is your name listed there?
 21 A. No, because sponsors would be House members.
 22 Q. I'm sorry, Senator, I said the cosponsor.
 23 A. Yes. And I said no, because they're all House
 24 members, so I'm not listed there.
 25 For the record, which could be helpful, if

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1 wrong. If the record reflects that everyone was listed
 2 as an author, I did not recall that.
 3 Q. Senator, do you recall something special
 4 happening with SB 14 whereby more than one senator was
 5 allowed to be an author?
 6 A. I don't recall that. If I did, I would have
 7 testified to that. So, even now that I see this, it
 8 doesn't refresh my memory.
 9 Q. So you're listed as an author of SB 14 in this
 10 exhibit; is that correct?
 11 A. Yes. Uh-huh.
 12 Q. Do you remember being involved in the drafting
 13 of the bill's language to any extent?
 14 A. I was not involved in the -- to the best of my
 15 knowledge, I was not involved in the drafting of the
 16 legislation.
 17 Q. So is it fair to say that the designation of
 18 you as an author of SB 14 is misleading?
 19 MR. SWEETEN: On this sheet?
 20 A. Yeah. Yeah. This -- this sheet shows as an
 21 author, and it may have been. I just don't recall that
 22 they made a special provision to allow everyone to be
 23 author. But when I think of an author of the bill, it's
 24 the person who writes it and files it. The original
 25 person is what I think of the author. And so that would

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1 a bill originates in a chamber, you're the author or
 2 coauthor. And then when you pick it up on the other
 3 side, you're the sponsor. So if it had originated in
 4 the House, the House would be the author, so we would be
 5 the sponsors.
 6 So it originated in the Senate, it's a
 7 Senate bill, so that's why we were authors or coauthors
 8 or joint authors.
 9 Q. So your testimony today is that you played no
 10 role in the development of the language contained in SB
 11 14; is that correct?
 12 MR. SWEETEN: Wait. Hold on a minute. I
 13 think you asked him did he draft, and I let him testify
 14 as to whether he had the physical act of drafting the
 15 bill. Now you're asking him about the role, and I think
 16 now you're asking about what role he had in the process
 17 which could implicate communications with legislators,
 18 staff, state agencies, Leg Council, constituents, and
 19 reveal his mental impressions, motivations or opinions
 20 about legislation. So to the extent that's
 21 legislatively privileged, don't answer that question.
 22 But to the extent that you can answer based on matters
 23 of the public record, you can do so.
 24 A. Yeah. I played no significant role in drafting
 25 or crafting the bill, to the best of my knowledge.

<p style="text-align: center;">133</p> <p>1 Q. (By Mr. Fisher) Were you aware that the State 2 of Texas has identified you as someone who could testify 3 to the development of SB 14?</p> <p>4 A. I was not aware of that.</p> <p>5 Q. Did you have any communications about SB 14 6 with other legislators who had authored past photo ID 7 bills?</p> <p>8 MR. SWEETEN: You can answer if there was 9 a communication.</p> <p>10 A. Yeah. I don't -- I don't recall that.</p> <p>11 Q. (By Mr. Fisher) What about staff, any 12 communication with other legislators' staff who had 13 authored past photo ID bills?</p> <p>14 A. Yeah. I don't recall that. I have very little 15 interaction of staff of other senators.</p> <p>16 Q. Did you at one point decide to support SB 14?</p> <p>17 A. Yes.</p> <p>18 Q. And prior to that, did you consider past photo 19 ID bills in the Texas legislature?</p> <p>20 MR. SWEETEN: I think the question asks 21 him to reveal his mental impressions, his mental 22 process, motivations about legislation. I think that 23 would be legislatively privileged.</p> <p>24 A. Assert legislative privilege.</p> <p>25 Q. (By Mr. Fisher) Is that on the advice of your</p>	<p style="text-align: center;">135</p> <p>1 election officials in Austin about SB 14?</p> <p>2 A. I don't think so.</p> <p>3 Q. So you've testified that you didn't have any 4 communications with other legislators who had authored 5 past photo ID bills, other -- their staff, other 6 legislators from other states, interest groups, minority 7 groups, groups representing minority voters, officials 8 in the executive branch or any local election officials 9 about SB 14; is that right?</p> <p>10 MR. SWEETEN: Objection, asked and 11 answered, but go ahead.</p> <p>12 A. To the best of my recollection, I -- that is an 13 accurate statement.</p> <p>14 Q. (By Mr. Fisher) So what did you consider 15 before deciding whether to support or not support SB 14?</p> <p>16 MR. SWEETEN: Don't answer that. That's a 17 matter that's subject to the legislative 18 privilege. You're asking him to reveal your mental 19 impressions, opinions, motivations about legislation and 20 communications.</p> <p>21 A. Advice of the counsel, I assert legislative 22 privilege.</p> <p>23 Q. (By Mr. Fisher) In drafting SB 14, did you or 24 your staff review any reports or studies?</p> <p>25 MR. SWEETEN: Objection. That asks for</p>
<p style="text-align: center;">134</p> <p>1 counsel, Senator?</p> <p>2 A. Yes, it is.</p> <p>3 Q. Did you have any communications with officials 4 or legislators from other states about SB 14?</p> <p>5 MR. SWEETEN: You can answer as to whether 6 you had communication.</p> <p>7 A. Not -- not to my knowledge. I don't recall 8 that.</p> <p>9 Q. (By Mr. Fisher) Did you have communications 10 concerning SB 14 with any interest groups?</p> <p>11 A. Not that I recall.</p> <p>12 Q. Did you have communications regarding SB 14 13 with any groups representing minority voters?</p> <p>14 A. Not that I recall.</p> <p>15 Q. Did you have communications about SB 14 with 16 any officials in the executive branch?</p> <p>17 A. I don't -- I don't recall. It's possible, but 18 I don't recall anything specific.</p> <p>19 Q. Did you have communications with any local 20 election officials about SB 14?</p> <p>21 A. Local being Austin or local being Houston?</p> <p>22 Q. Did you have any communications with local 23 election officials in your district about SB 14?</p> <p>24 A. I don't think so.</p> <p>25 Q. Did you have communications with any local</p>	<p style="text-align: center;">136</p> <p>1 your mental impressions, opinions, motivations about 2 legislation and the legislative process. So I'm going 3 to instruct you not to answer based on legislative 4 privilege.</p> <p>5 A. Yes, on advice of counsel, I assert legislative 6 privilege.</p> <p>7 Q. (By Mr. Fisher) When was SB 14 signed into 8 law?</p> <p>9 A. I'd have to look at the record. I don't know.</p> <p>10 Q. Please feel free to take a look at the exhibit, 11 Exhibit 8 that I just handed you.</p> <p>12 A. Okay. (Witness reading.) Okay. There you go. 13 5/27/2011.</p> <p>14 Q. And did you vote for SB 14?</p> <p>15 A. Yes, I did.</p> <p>16 Q. To your knowledge, has the Secretary of State 17 enforced SB 14 after being passed into law?</p> <p>18 A. I do not believe it has been implemented.</p> <p>19 Q. Have any county election officials enforced SB 20 14?</p> <p>21 A. Not to my knowledge.</p> <p>22 Q. Are you aware of any problems or fraud, based 23 upon the public record, based on the fact that SB 14 has 24 not become law?</p> <p>25 A. We just had our election yesterday so I'm not</p>

<p style="text-align: center;">137</p> <p>1 aware of anything.</p> <p>2 Q. Do you recall what forms of identification are 3 permitted by SB 14?</p> <p>4 A. I'd have to -- I'd have to look.</p> <p>5 Q. I'm going to hand you what's previously been 6 marked as Exhibit 5. It's a 17-page document with a 7 notation of SB 14 in the upper right-hand corner.</p> <p>8 A. Okay.</p> <p>9 Q. And Senator, do you recognize this document? 10 Just take a look at the front page here. You can also 11 look at the last page that will tell you what version of 12 the bill this is.</p> <p>13 A. Yes.</p> <p>14 Q. Do you recognize this document, Senator?</p> <p>15 A. I -- it appears to be the SB 14. Yes.</p> <p>16 Q. And is this the copy of the legislation that 17 you were listed as an author of?</p> <p>18 A. I haven't read every page of this, but I'm 19 assuming that it is.</p> <p>20 Q. So if you turn to what is Page 9 of the 21 document, and that's Section 14, Section 63.0101.</p> <p>22 A. Yes. Okay.</p> <p>23 Q. And what does this section set out, Senator?</p> <p>24 A. Sets out the type of identification that would 25 be an acceptable form.</p>	<p style="text-align: center;">139</p> <p>1 Senator Hinojosa regarding the forms of ID allowable by 2 Section 14?</p> <p>3 MR. SWEETEN: Can you read that question 4 back? (Requested portion read back by the court 6 reporter.)</p> <p>7 MR. SWEETEN: Objection. That calls for 8 matters subject to legislative privilege. Don't reveal 9 the substance of any communications you had with Senator 10 Hinojosa.</p> <p>11 A. Advice of counsel, assert legislative 12 privilege.</p> <p>13 Q. (By Mr. Fisher) Senator, how much does it cost 14 to obtain a U.S. passport? Are you aware of that?</p> <p>15 A. I'm not.</p> <p>16 Q. Are you aware of the percentage of Texans that 17 have a passport?</p> <p>18 A. I'm not.</p> <p>19 Q. Are you aware of the Democrat -- demographic 20 makeup of Texans that have a passport?</p> <p>21 A. I'm not.</p> <p>22 Q. Senator, how often do military IDs expire?</p> <p>23 A. I don't know.</p> <p>24 Q. Do they expire more or less often than driver's 25 licenses?</p>
<p style="text-align: center;">138</p> <p>1 Q. And what types are those, Senator?</p> <p>2 A. Driver's license, election identification 3 certificate or personal identification card issued to 4 the person by the Department of Public Safety that has 5 not expired nor 160 days. And the United States 6 military ID or that has not expired prior to 60 7 days. Citizenship certificate that contains a person's 8 photograph like a passport. License to carry 9 concealed. And that's what I see.</p> <p>10 Q. Did you have any communications with anyone 11 about the forms of identification included in this 12 section?</p> <p>13 A. Yes.</p> <p>14 Q. And when did you have those conversations?</p> <p>15 A. Sometime during the discussion of the bill.</p> <p>16 Q. And who are these communications with?</p> <p>17 A. The one I'm thinking of is, if my memory is 18 correct, I could be wrong, was Senator Hinojosa.</p> <p>19 Q. And was this the discussion in person, via 20 phone, via e-mail? What was the form?</p> <p>21 A. I think it was in person.</p> <p>22 Q. Was there anyone else present during this 23 discussion?</p> <p>24 A. I don't recall.</p> <p>25 Q. And the substance of your conversation with</p>	<p style="text-align: center;">140</p> <p>1 A. I don't know.</p> <p>2 Q. Where do members of the military have their IDs 3 made?</p> <p>4 A. I don't know.</p> <p>5 Q. Do members of the military often have Texas 6 driver's licenses?</p> <p>7 A. I don't know.</p> <p>8 Q. Are you aware of any information on this such 9 as studies or analysis?</p> <p>10 MR. SWEETEN: Yeah. Don't reveal any 11 communications you had or thoughts, mental impressions, 12 opinions, motivations about legislation. Those are 13 subject to the legislative privilege.</p> <p>14 A. Yeah. I don't recall.</p> <p>15 Q. (By Mr. Fisher) Do you know the number of 16 Texas registered voters that have a military ID?</p> <p>17 MR. SWEETEN: Same objection. With 18 respect to your thoughts, mental impressions, opinions, 19 motivations about legislation, or in furtherance of the 20 legislative process, don't reveal those. Those are 21 subject to the legislative privilege. Also, don't 22 reveal communications you had with state agencies, Texas 23 Leg Council, legislators, legislative staff, or 24 constituents. In answering this question, you can refer 25 to matters of the public record.</p>

DAN PATRICK

May 30, 2012

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1 A. Yeah. I don't know.
 2 Q. (By Mr. Fisher) Did you conduct any analysis
 3 as to how many registered voters possessed the required
 4 forms of ID required by Section 14 of SB 14?
 5 MR. SWEETEN: Same objection, calls for
 6 matters of legislative privilege. Don't answer except
 7 for the extent you can refer to the matters of the
 8 public record.
 9 A. Yeah. I would assert legislative privilege on
 10 advice of counsel.
 11 Q. (By Mr. Fisher) Did you analyze or direct
 12 anyone to analyze which registered voters did not
 13 possess the required forms of ID required in SB 14?
 14 MR. SWEETEN: Same instruction. Same
 15 instruction.
 16 A. Yeah. I would assert legislative privilege at
 17 the advice of counsel.
 18 Q. (By Mr. Fisher) Did you read any public
 19 information that assisted you in evaluating the forms of
 20 identification required by SB 14?
 21 MR. SWEETEN: I'm going to object to the
 22 question. I think it calls for him to reveal his
 23 thoughts, his mental impressions, process, opinions,
 24 motivation about legislation. And I think to the extent
 25 that I think that's legislative privilege, but if you

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1 can answer to the extent that you can refer to matters
 2 that aren't subject to the privilege.
 3 A. Yeah. I'm sure I've read something in the
 4 public domain somewhere about the issue. I couldn't
 5 tell you specifically what it was.
 6 Q. (By Mr. Fisher) What you read in the public
 7 domain, did it mention the impact of SB 14 and the
 8 requirements of identification on minority voters?
 9 A. I don't recall.
 10 Q. Did you or your staff conduct any analysis to
 11 determine if minority voters could be disproportionately
 12 less likely to possess the forms of ID required in SB
 13 14?
 14 MR. SWEETEN: Objection. Legislative
 15 privilege. Don't answer the question.
 16 A. Yeah. I would assert legislative privilege.
 17 Q. (By Mr. Fisher) And is that on the advice of
 18 your counsel, Senator?
 19 A. Yes, it is.
 20 Q. Under SB 14, in SB 14, you're listed as the
 21 author; is that correct, Senator?
 22 A. It is based on the document you presented to
 23 me.
 24 Q. Under SB 14, who would be verifying the
 25 identity of a voter?

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1 MR. SWEETEN: You can refer to the
 2 specific Texas Senate Bill 14 in answering the
 3 question. Don't reveal your thoughts, mental
 4 impressions about the legislation itself.
 5 A. Yeah. I'd have to read -- I'd have to read the
 6 bill, specifically, what it says.
 7 Q. (By Mr. Fisher) Please do, Senator. There's
 8 not -- it's not very long.
 9 A. You want me to read the whole bill? It will
 10 take us a while. It is 16 pages. If you have a
 11 specific point you want to refer to, I'm happy to review
 12 it.
 13 Q. Senator, I just want to know who would be
 14 verifying the identity of a voter under SB 14?
 15 A. At the time of voting or a final arbiter of a
 16 decision if it were in dispute?
 17 Q. At the time of voting, Senator.
 18 A. Okay. Let me look and see if I can find the
 19 wording. Without being able to speed read 16 pages, we
 20 do have designated people in polling places where there
 21 are likely to be judges, who -- people sign in to vote.
 22 So it would be the people at the polling place who would
 23 verify.
 24 Q. Senator, do you think it's important --
 25 A. Let me just finish that. Whoever those workers

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1 might be.
 2 Q. Do you think it's important -- an important
 3 part of the process, as far as the identification
 4 required by SB 14, when that identification is actually
 5 verified?
 6 MR. SWEETEN: I think that calls for his
 7 thoughts, mental impressions or opinions about
 8 legislation. I'm going to instruct him not to answer.
 9 A. Yeah. I would assert legislative privilege on
 10 my own on that one.
 11 Q. (By Mr. Fisher) So if we turn to Section 9,
 12 and then flip it over a page to Section C.
 13 A. Which is what page actually?
 14 Q. It ended up being Page 5.
 15 A. Okay.
 16 Q. On the presentation of the documentation
 17 required under Subsection B, would you read that
 18 paragraph there, please?
 19 A. On the presentation -- okay. I've read that.
 20 MR. SWEETEN: Do you want him to read it
 21 out loud, Spencer?
 22 MR. FISHER: Sure.
 23 A. On presentation -- you want me to read it?
 24 Q. (By Mr. Fisher) Absolutely.
 25 A. "On presentation of the documentation required

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1 under Subsection B, an election officer shall determine
 2 whether the voter's name on the documentation is on the
 3 list of registered voters for the precinct. If in
 4 making a determination under this subsection, the
 5 election officer determines under standards adopted by
 6 the Secretary of State that the voter's name on
 7 documentation is substantially similar to but does not
 8 match exactly with the name on the list, the voter shall
 9 be accepted for voting under Subsection D if the voter
 10 submits an affidavit stating that the voter is the
 11 person on the list of registered voters."

12 Q. And you can go ahead and read D.

13 A. "If as determined under Subsection C, the
 14 voter's name is on the precinct list of registered
 15 voters and the voter's identity can be verified from
 16 documentation presented under Subsection B, the voter
 17 shall be accepted for voting." Continue?

18 Q. That's enough, Senator.

19 A. All right.

20 Q. Do you feel that this issue is central to
 21 whether SB 14 would be a successful bill?

22 MR. SWEETEN: I'm going to object. I
 23 think that calls for his mental impressions and thoughts
 24 about the bill, and I think that's a matter subject to
 25 the legislative privilege. I instruct you not to answer

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1 reporter.)

2 A. I'm rereading. Well, it says here that if it
 3 doesn't match but they have a name that's similar, and
 4 they submit an affidavit, the voter would be accepted
 5 for voting.

6 Q. (By Mr. Fisher) So based upon this, Senator,
 7 how far off do the names have to be, or how similar do
 8 the names have to be?

9 MR. SWEETEN: You're asking him based on
 10 the text of the bill?

11 Q. (By Mr. Fisher) Based on the text of the
 12 bill.

13 A. The bill does not address that.

14 Q. Was there any thinking about this issue when
 15 this legislation was considered?

16 MR. SWEETEN: Objection. Don't reveal
 17 your thoughts, mental impressions or opinions about the
 18 bill that was subject to the legislative privilege. I
 19 instruct you not to answer that question, unless to the
 20 extent it was expressed in the matter of public record.

21 A. Yeah. I assert legislative privilege on the
 22 advice of counsel.

23 Q. (By Mr. Fisher) Senator, do you know if the
 24 name on your driver's license matches the name on your
 25 voter registration card?

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1 the question.

2 A. Yeah. I assert legislative privilege on advice
 3 of counsel.

4 Q. (By Mr. Fisher) So, Senator, let me get your
 5 thinking on something here. If a person shows up to a
 6 polling place with a driver's license and the name does
 7 not match the registration role, what happens?

8 MR. SWEETEN: You're saying under the
 9 Texas Senate Bill 14 as currently written?

10 MR. FISHER: The bill we're looking at.

11 A. Say that again. If a person --

12 Q. (By Mr. Fisher) As I said, let me get your
 13 thinking on something here. If a person shows up to a
 14 polling place with a driver's license where the name
 15 does not match the name on the registration roll, what
 16 happens?

17 A. I would have to refer back to the bill and see
 18 what the law says.

19 Q. Okay. Let's go back.

20 A. All right. Where do we want to go back to,
 21 Page 5?

22 Q. I think that's where you'll find the answer.

23 A. And your question, could you read back the
 24 question for me?

25 (Requested portion read back by the court

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1 A. Do I know for certain that it does? I'm not
 2 sure if it includes first, middle and last. So I do not
 3 know for certain that it would be very similar.

4 Q. Could the names on your driver's license and
 5 your voter registration card be substantially different?

6 A. Be substantially different? Not that I'm aware
 7 of.

8 Q. Is it possible that the last name on your
 9 driver's license and the last name on your voter
 10 registration card are different?

11 A. Anything is possible, but I'm not aware.

12 Q. Why would that be possible in your case,
 13 Senator?

14 MR. SWEETEN: Objection, calls for
 15 speculation. Go ahead. You can answer.

16 A. When you say "it's possible," anything is
 17 possible.

18 Q. (By Mr. Fisher) Well, Senator, have you
 19 changed your name in the past 15 years?

20 A. Yes.

21 Q. So it's possible, then, in the act of changing
 22 your name, that the name on your driver's license and
 23 the name on your voter registration card are no longer
 24 the same, correct?

25 A. No longer the same that it was before I changed

<p style="text-align: center;">149</p> <p>1 it?</p> <p>2 Q. No longer the same as in they have the 3 same name on both documents.</p> <p>4 A. Today?</p> <p>5 Q. Yes, today, Senator.</p> <p>6 A. I don't know. I mean, I'd have to verify that.</p> <p>7 Q. So you would have to do research with regard to 8 your own voter registration and your own driver's 9 license to determine if you're eligible to vote under SB 10 14; is that correct?</p> <p>11 A. I would not call it research. I'd have to look 12 at my driver's license and look at my voter ID card.</p> <p>13 Q. As we sit here today, Senator, do you know if 14 you're eligible to vote under SB 14?</p> <p>15 A. I believe I'm eligible to vote.</p> <p>16 Q. Are you certain that you're eligible to vote 17 under SB 14, Senator?</p> <p>18 A. I believe I'm eligible to vote.</p> <p>19 Q. Would you be surprised if you were not eligible 20 to vote under SB 14, Senator?</p> <p>21 A. I would be surprised.</p> <p>22 Q. Given the fact that you've changed your name in 23 the past 15 years, is it at least possible that you're 24 not eligible to vote under SB 14?</p> <p>25 A. Anything is possible.</p>	<p style="text-align: center;">151</p> <p>1 you're using the word "possible."</p> <p>2 Q. I'm not asking you to address a specific, 3 Senator. I'm giving you a general, and I can't make it 4 any more general than that.</p> <p>5 A. Okay.</p> <p>6 Q. The question about eligibility to vote under SB 7 14, and we can make it more specific with regard to your 8 own circumstance, but generally, if someone changes 9 their name, is it possible that they're no longer able 10 to vote under the terms of SB 14 because their license 11 no longer matches their voter registration card, the 12 names on those two documents?</p> <p>13 A. I -- I believe that the law, and I would check 14 the record to be certain, that when you change your 15 name, you have to change your license within 30 days.</p> <p>16 Q. But that doesn't change your voter registration 17 card; is that correct, Senator?</p> <p>18 A. You can make a change on that as well.</p> <p>19 Q. But for a voter who has not made that change, 20 Senator, would their license and their voter 21 registration card then have different names on them?</p> <p>22 A. I'd have to know the specific situation, the 23 time line, what happened. You're asking me about a 24 hypothetical, could something happen, is it possible? 25 Hypotheticals are -- hypotheticals are tough to answer</p>
<p style="text-align: center;">150</p> <p>1 Q. For someone that doesn't change their name, is 2 it possible that they're not eligible to vote under SB 3 14?</p> <p>4 A. Anything, when you say "is possible," anything 5 is possible.</p> <p>6 Q. If someone has a voter registration card and a 7 driver's license issued to them under the same name, and 8 they do not change their name, are they eligible to vote 9 under SB 14?</p> <p>10 A. I'm sorry. Say that again. (Requested portion read back by the court reporter.)</p> <p>13 MR. SWEETEN: Under the Texas Senate Bill 14 14, right? Is that the question?</p> <p>15 Q. (By Mr. Fisher) The question is the question. If you need clarification, Senator, please ask.</p> <p>17 A. If a person has a driver's license and the same name is on the driver's license as is on the voter registration card, and they have a photo ID, yes, they'd be able to vote.</p> <p>21 Q. But if a person changes their name, and for any reason, meaning marriage, or the fact that they changed their name, is it possible that that voter would no longer be able to vote under the terms of SB 14?</p> <p>25 A. I -- I couldn't address a specific, and again,</p>	<p style="text-align: center;">152</p> <p>1 and possibles are always possible.</p> <p>2 Q. Well, hypotheticals, I think this is a very 3 specific hypothetical, Senator, and we can make it more 4 specific if you want about your own situation.</p> <p>5 A. Yeah.</p> <p>6 Q. Have you changed your name, Senator? I'll 7 repeat the question.</p> <p>8 A. Yes.</p> <p>9 MR. SWEETEN: Objection, asked and answered.</p> <p>11 A. Yeah.</p> <p>12 Q. (By Mr. Fisher) Are you certain that your 13 voter registration name and the name on your driver's 14 license are the same name that you would be eligible to 15 vote under SB 14?</p> <p>16 MR. SWEETEN: Objection, asked and answered.</p> <p>18 A. Yeah. Asked and answered.</p> <p>19 Q. (By Mr. Fisher) That's not an answer, Senator.</p> <p>20 A. You asked -- I think you included the word 21 "substantially" before. Would there be a substantial 22 difference between my --</p> <p>23 Q. It doesn't matter what I asked before, 24 Senator. This is the question on the table, and we can 25 read it back if you want.</p>

<p style="text-align: center;">153</p> <p>1 MR. SWEETEN: Objection, asked and 2 answered. Object, argumentative. But you can answer to 3 the extent you can answer.</p> <p>4 A. Sure. You can ask again.</p> <p>5 MR. FISHER: Can you read it back? 6 (Requested portion read back by the court 7 reporter.)</p> <p>8 A. I believe they're the same, but --</p> <p>9 Q. (By Mr. Fisher) The question is not whether 10 you believe, Senator. The question is, are you 11 certain?</p> <p>12 MR. SWEETEN: Objection, asked and 13 answered. Objection, argumentative.</p> <p>14 A. I've answered. I believe they're the same.</p> <p>15 Q. (By Mr. Fisher) That's not an answer to my 16 question, Senator. The question is: Are you certain 17 that they are the same?</p> <p>18 MR. SWEETEN: Same --</p> <p>19 Q. (By Mr. Fisher) Sitting here today.</p> <p>20 MR. SWEETEN: -- objection. Same 21 objection.</p> <p>22 MR. FISHER: I'm not getting an answer to 23 my question, Counsel.</p> <p>24 MR. SWEETEN: I think he's answered the 25 question. He's trying to do so.</p>	<p style="text-align: center;">155</p> <p>1 Q. If I can hand you, at this time, Exhibit 165. 2 (Exhibit 165 marked for identification.)</p> <p>3 Q. (By Mr. Fisher) And so Exhibit 165 is a 4 LexisNexis search, and if you would turn to the second 5 page.</p> <p>6 A. Uh-huh.</p> <p>7 Q. You'll see the Texas voter registration 8 information.</p> <p>9 A. Okay.</p> <p>10 Q. And I believe this search is of you; is that 11 correct, Senator?</p> <p>12 A. Yes.</p> <p>13 Q. And on the second page, can you tell me what it 14 says underneath Registrant Information Name, and this is 15 under Texas Voter Registration.</p> <p>16 MR. SWEETEN: Can you tell me what you are 17 looking at, Counsel?</p> <p>18 MR. FISHER: The second page.</p> <p>19 MR. SWEETEN: Uh-huh.</p> <p>20 MR. FISHER: Which is Voter Registration, 21 so that would be the first item on the second page.</p> <p>22 MR. SWEETEN: Okay.</p> <p>23 Q. (By Mr. Fisher) And we see Number 1 is Texas 24 Voter Registration, Registrant Information, and what 25 does it say next to Name, Senator?</p>
<p style="text-align: center;">154</p> <p>1 A. I believe they're the same.</p> <p>2 Q. (By Mr. Fisher) Senator, you're either certain 3 or you're not certain. Are you certain that they're the 4 same and that you would be eligible to vote under SB 14?</p> <p>5 MR. SWEETEN: Objection, argumentative. 6 Objection, asked and answered.</p> <p>7 A. I'm just trying to -- I'm trying to -- you 8 know, just remember looking at both. I believe they're 9 the same. You know.</p> <p>10 Q. Would it surprise you if they were different, 11 Senator?</p> <p>12 A. If they were different at all?</p> <p>13 Q. Would it surprise you that the last name on 14 your voter registration was different than the last name 15 on your license?</p> <p>16 A. That would surprise me.</p> <p>17 MR. FISHER: Take a break here.</p> <p>18 THE WITNESS: Okay.</p> <p>19 (Recess from 3:43 to 3:54 p.m.)</p> <p>20 Q. (By Mr. Fisher) So Senator, referring back to 21 the question that I asked previously about your 22 knowledge of the name that appears on your voter 23 registration and your driver's license. And you said 24 that you believe that they're the same; is that correct?</p> <p>25 A. I did.</p>	<p style="text-align: center;">156</p> <p>1 A. Goeb, Danny.</p> <p>2 Q. Okay. And how that is spelled? Could you 3 spell that for me?</p> <p>4 A. This is not accurate, but this -- my 5 registration is correct. My registration matches my 6 driver's license today. This is from --</p> <p>7 Q. Senator, did you check that during the break, 8 or how do you know that information? Because in your 9 testimony previously, you said you were not certain or 10 you believed.</p> <p>11 A. Well, yeah, I wasn't certain, so I made sure I 12 was correct. And the reason I said I believed is 13 because I just voted and I just looked at my 14 registration card two weeks ago. And my registration 15 card matches my driver's license, Patrick, Dan Goeb.</p> <p>16 Q. And did you change your Texas voter 17 registration sometime after you changed your name, 18 Senator?</p> <p>19 A. You know, I must have. I must have because 20 it's correct.</p> <p>21 Q. And how did you go about doing that, Senator?</p> <p>22 A. I don't recall. I changed my name in 2004, so 23 it was eight years ago, and I don't recall the procedure 24 that I did that.</p> <p>25 Q. But you did have to go and -- you did -- strike</p>

<p style="text-align: center;">157</p> <p>1 that. You did go and change your name with regard to 2 your Texas voter registration; is that correct?</p> <p>3 A. Yes, apparently. I mean, apparently I did, 4 because it's correct.</p> <p>5 Q. And you're not aware of what you did to do 6 that, correct?</p> <p>7 A. You know, I don't recall if back in 2004, if it 8 was online or in person, you know. I don't recall. But 9 it happens all the time, because people get married all 10 the time and change their names.</p> <p>11 Q. So it's your testimony that you changed the 12 name on your voter registration in 2004; is that 13 correct?</p> <p>14 A. I don't know when I changed it, but it 15 accurately -- it's accurate today, and to my knowledge, 16 it's been accurate.</p> <p>17 Q. Did you change it at some point in the last two 18 weeks?</p> <p>19 A. No. I moved in December of 2011, and when you 20 move, you have, I think, 30 days under the law, I stand 21 to be corrected, to change your driver's license to 22 reflect your new address, which I did. I have a new 23 driver's license. And then you go online and apply for 24 a new voter registration card to reflect your new 25 address so you can vote in the right precinct. And</p>	<p style="text-align: center;">159</p> <p>1 A. The purpose of the bill is to ensure the 2 integrity of the voting process, of the ballot box.</p> <p>3 Q. (By Mr. Fisher) Well, Senator, we just spent, 4 you know, a few minutes talking about a situation where 5 someone who changes their name as you did, could have a 6 voter registration card that's different from the name 7 on their driver's license, and does that, for some 8 reason, impact the integrity of the ballot box?</p> <p>9 MR. SWEETEN: Don't reveal your thoughts, 10 mental impressions, opinions, motivations about the 11 legislation. That is protected by the legislative 12 privilege.</p> <p>13 A. Yeah. I think I would assert legislative 14 privilege on that.</p> <p>15 Q. (By Mr. Fisher) Are you asserting legislative 16 privilege in the answer to that question on the advice 17 of your counsel?</p> <p>18 A. Yes.</p> <p>19 Q. Was the passage of SB 14 a priority for anyone 20 outside of Texas government?</p> <p>21 A. I can't get into the minds of what is a 22 priority or not a priority of people.</p> <p>23 MR. SWEETEN: Objection, speculation.</p> <p>24 Q. (By Mr. Fisher) Were there any interest groups, 25 that you're aware of, that were interested in the</p>
<p style="text-align: center;">158</p> <p>1 because of redistricting, those voter registration cards 2 were not sent out until that issue was resolved.</p> <p>3 Q. Senator, do all the members of your district 4 have access to the Internet?</p> <p>5 A. I -- I don't know.</p> <p>6 Q. Was the passage of SB 14 a priority for you. 7 Senator?</p> <p>8 A. It was a priority for me as stated in the 9 public record, yeah.</p> <p>10 Q. And what was the purpose of SB 14?</p> <p>11 MR. SWEETEN: You can testify as to the 12 understanding of the purpose of SB.</p> <p>13 A. To ensure the integrity of the ballot box.</p> <p>14 Q. (By Mr. Fisher) And in your opinion, would the 15 integrity of the ballot box be ensured by presenting a 16 photo ID before receiving a ballot?</p> <p>17 MR. SWEETEN: He's testified to the 18 purpose, and now I think you're asking specifics about 19 the bill and him to reveal his thoughts, mental 20 impressions or opinions. I've let him answer as to the 21 purpose of the bill. I think to the extent that you're 22 going to ask specific his mental impressions about the 23 bill, that I think that that would be a subject of 24 legislative privilege. But to the extent you can answer 25 without evading privilege, you can do so.</p>	<p style="text-align: center;">160</p> <p>1 passage of SB 14?</p> <p>2 A. I think on the public record, although I can't 3 name a specific place that I read or heard, I think it's 4 -- there has been public statements of people who 5 support.</p> <p>6 Q. Do you remember those people?</p> <p>7 A. I can't remember specifics, but, you know, 8 obviously, I've read it, heard it, and seen it, am aware 9 of it.</p> <p>10 Q. Was the passage of SB 14 a priority for any 11 minority groups in Texas?</p> <p>12 MR. SWEETEN: Objection, calls for 13 speculation.</p> <p>14 A. You know, I don't know.</p> <p>15 Q. (By Mr. Fisher) Did you have any communications 16 with groups that supported the passage of SB 14?</p> <p>17 MR. SWEETEN: You can answer as phrased.</p> <p>18 A. Can you repeat that?</p> <p>19 Q. (By Mr. Fisher) Sure. Did you have any 20 communications with groups that advocated for the 21 passage of SB 14?</p> <p>22 A. In a broad sense, if I'm speaking to groups and 23 they're in support of the bill, then, yes. I, you know, 24 I spoke to groups, and that would be a form of 25 communication.</p>

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1 Q. So the communications you're talking about
 2 would be speeches you gave to large groups of people; is
 3 that correct?

4 A. Or it could be -- you know, it could be
 5 sometimes you speak to a group of 25 people. But, yes.
 6 And if there were any other communications, I don't
 7 recall anything specific.

8 Q. Do you have any names of anyone that was
 9 present during these communications?

10 A. Outside of what I submitted to you that you
 11 requested, or your office requested about correspondence
 12 and those people would have names on there, because I
 13 did submit some, I can't recall, you know, specifically
 14 who all those were from.

15 Q. So you've talked about the purpose of SB 14.
 16 Was any part of the purpose of SB 14 to decrease the
 17 number of Hispanic voters?

18 MR. SWEETEN: You can answer as to the
 19 purpose of the bill.

20 A. The specific purpose of the bill was to protect
 21 the integrity of the ballot box.

22 Q. (By Mr. Fisher) Was any part of the purpose of
 23 SB 14 to decrease the number of any other group of
 24 minority voters from voting?

25 A. The purpose of the bill was to protect the

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1 A. Can I describe all -- all public information?
 2 Q. Communications from your office about the
 3 purpose of SB 14.

4 A. Boy, that's a hard question, because I don't
 5 know all the public information disseminated. But the
 6 purpose would be to protect the integrity of the ballot
 7 box. To the best of my knowledge that -- you know
 8 that's what we...

9 Q. Any meetings with constituents at which you
 10 were present where the purpose of SB 14 was discussed?

11 A. I don't -- could have been, but I don't think
 12 so, because Senate 14, you know, I didn't see it until
 13 we were in session, and once I get in session, I don't
 14 have that much interaction with the constituents because
 15 I'm in Austin. So could someone have come to my office
 16 and talked and about it? Possibly, but I don't recall.

17 Q. Any meetings with the Lieutenant Governor?

18 A. I don't -- maybe in a general meeting, yes, I'm
 19 sure, but I don't remember a specific meeting.

20 Q. Any meetings with the Governor?

21 A. I don't recall any meetings with the Governor
 22 on this bill.

23 Q. Any conversations with other senators who
 24 opposed SB 14 regarding the purpose of SB 14, that you
 25 have previously identified?

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1 integrity of the ballot box.

2 Q. Was any part of the purpose of SB 14 to
 3 discriminate in any way against any group of minority
 4 voters?

5 A. The purpose of the bill was to protect the
 6 integrity of the ballot box.

7 Q. Was any part of the purpose of SB 14 for
 8 partisan purposes?

9 A. The purpose of the bill was to protect the
 10 integrity of the ballot box.

11 Q. Did the purpose of photo identification in
 12 Texas remain the same between SB 362 and SB 14?

13 A. I would have to go back and do a bill
 14 comparison. From what we read in the record today, and
 15 I'd have to go back and do a bill comparison, it looks
 16 like 11 was somewhat different than SB 362.

17 Q. Bill -- SB 362 and SB 14 --

18 A. I mean 14. Did I say 11? I'm sorry.

19 Q. SB 362 and SB 14 may be different, but the
 20 question is: Were the purposes of the bills the same?
 21 Were the purposes of SB 362 and SB 14 the same?

22 A. Yes.

23 Q. Senator, could you describe all public
 24 communications from your office about the purposes of
 25 SB 14?

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1 MR. SWEETEN: You can answer about any
 2 conversations. Don't reveal the substance.

3 A. Okay. I'm sure there were discussions. I
 4 referred to one earlier today, specifically with Senator
 5 Hinojosa, that I believe I had. But I don't -- beyond
 6 that, outside of generic conversations with other
 7 senators who were opposed to the bill, I don't have any.

8 Q. (By Mr. Fisher) And who were the main opponents
 9 to SB 14?

10 A. There weren't any main opponents. They were
 11 just all the Democrats in the Senate who were opposed,
 12 not one more than the other.

13 Q. And what's your understanding of why they were
 14 opposed to SB 14?

15 MR. SWEETEN: In answering this question,
 16 don't reveal specific communications with legislators or
 17 legislative staff.

18 A. Yeah, I can't speculate on that one.

19 Q. (By Mr. Fisher) Any knowledge of public
 20 statements by what you termed as all the Democrats --

21 A. Right.

22 Q. -- with regard to why they opposed to SB 14?

23 MR. SWEETEN: You can answer as phrased.
 24 A. Yeah, I don't -- I don't recall. I mean, maybe
 25 I read something, but I don't recall anything.

<p style="text-align: center;">165</p> <p>1 specifically.</p> <p>2 Q. (By Mr. Fisher) Why was SB 14 a better way to</p> <p>3 accomplish the purpose that you've identified than</p> <p>4 current practice in Texas?</p> <p>5 MR. SWEETEN: Don't reveal your thoughts,</p> <p>6 mental impressions, opinions, motivations about</p> <p>7 legislation, in furtherance of the legislative process,</p> <p>8 nor in the communications we've outlined previously.</p> <p>9 Those would be matters subject to the legislative</p> <p>10 privilege. I instruct you not to answer to the extent</p> <p>11 your answer would reveal those.</p> <p>12 A. Yeah. I'll assert legislative privilege.</p> <p>13 Q. (By Mr. Fisher) And is that on the advice of</p> <p>14 your counsel?</p> <p>15 A. That's just on my own.</p> <p>16 Q. You supported, and you've testified earlier</p> <p>17 that you supported SB 362; is that correct?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So if you would take a look at SB 362,</p> <p>20 which I think you already have as an exhibit, it's --</p> <p>21 A. 162?</p> <p>22 Q. It's previously marked.</p> <p>23 A. 162, I think. You said Senate Bill 362?</p> <p>24 Q. Correct.</p> <p>25 A. I think it's Exhibit 162 is one that I have,</p>	<p style="text-align: center;">167</p> <p>1 Q. And if you would take a look at these two</p> <p>2 sections, please, and its Section 14 of Exhibit 5 and</p> <p>3 Section 10 of Exhibit 29.</p> <p>4 A. All right.</p> <p>5 Q. And they both start out, I believe, with the</p> <p>6 same language. "The following documentation is an</p> <p>7 acceptable form of photo identification under this</p> <p>8 chapter." And if you would take a look at those forms</p> <p>9 of identification that are allowed, please.</p> <p>10 A. Okay.</p> <p>11 Q. Do you notice any differences between the forms</p> <p>12 of identification that are allowed by each bill?</p> <p>13 MR. SWEETEN: You can answer based on the</p> <p>14 text of the bill.</p> <p>15 A. Yes. I'll have to go through it step by step.</p> <p>16 Q. (By Mr. Fisher) With regard to Item Number 1,</p> <p>17 what differences do you note between the two bills with</p> <p>18 regard to Item Number 1?</p> <p>19 A. In the bill, Senate Bill 14, the language says,</p> <p>20 "Has not expired no earlier than 60 days before date of</p> <p>21 presentation." 362 said "two years."</p> <p>22 Q. And you supported Senate Bill 362; is that</p> <p>23 correct, Senator?</p> <p>24 MR. SWEETEN: You can testify about</p> <p>25 matters of the public record.</p>
<p style="text-align: center;">166</p> <p>1 and another one is 161.</p> <p>2 Q. Those are both transcripts, Senator.</p> <p>3 A. Okay. Sorry.</p> <p>4 Q. I wanted you to look at the actual bill, and I</p> <p>5 believe it's right there. Underneath. And it's 29</p> <p>6 previously marked, and then you'll have Exhibit 5, which</p> <p>7 is SB 14.</p> <p>8 A. Okay. I've got two 362s, so I assume they're</p> <p>9 the same.</p> <p>10 Q. So Senator, we have Exhibit 5, which is SB 14,</p> <p>11 previously marked, and we have Exhibit 29, which is</p> <p>12 SB 362, and that's also been previously marked, and</p> <p>13 we've taken a look at these. We've looked at the photo</p> <p>14 identification requirements of both bills; is that</p> <p>15 correct?</p> <p>16 A. Yes.</p> <p>17 Q. And if you would turn to those now. And I can</p> <p>18 help you get there if you need me to.</p> <p>19 A. I think I remember on the first one. Okay.</p> <p>20 That starts on Page 6, I believe, on Exhibit 29, and on</p> <p>21 page --</p> <p>22 Q. Actually, Senator, it starts on Page 5 of 29.</p> <p>23 A. Okay.</p> <p>24 Q. And Page 9 of Exhibit 5.</p> <p>25 A. All right.</p>	<p style="text-align: center;">168</p> <p>1 A. Yeah, I did.</p> <p>2 Q. (By Mr. Fisher) And was Senate Bill 362, with</p> <p>3 regard to the expiration of a driver's license, an</p> <p>4 inferior way to carry out the purpose which you've</p> <p>5 identified as ensuring the integrity of the ballot box?</p> <p>6 A. I would assert legislative privilege.</p> <p>7 MR. SWEETEN: Objection, legislative</p> <p>8 privilege.</p> <p>9 Q. (By Mr. Fisher) We can move on to -- Senator,</p> <p>10 on Exhibit 29, why don't you go ahead and read Number 6,</p> <p>11 and I'll read it. "A valid identification card that</p> <p>12 contains the person's photograph and is issued by an</p> <p>13 agency or institution of the federal government or an</p> <p>14 agency, institution, or political subdivision of this</p> <p>15 state." And let me ask you if you see any similar</p> <p>16 language in SB 14?</p> <p>17 A. Is it just on Page 10 only, or is there more?</p> <p>18 Q. Regarding the acceptable forms of</p> <p>19 identification --</p> <p>20 A. Right. Right.</p> <p>21 Q. -- under SB 14, I think you're looking at Page</p> <p>22 9 and 10 of Exhibit 5, Senator.</p> <p>23 A. I don't -- I don't see that.</p> <p>24 Q. So what changed between 2009 and 2011 that made</p> <p>25 these forms of identification acceptable under SB 362,</p>

<p style="text-align: center;">169</p> <p>1 but not acceptable under SB 14?</p> <p>2 MR. SWEETEN: Objection, legislative</p> <p>3 privilege.</p> <p>4 A. Yeah. I would assert legislative privilege.</p> <p>5 Q. (By Mr. Fisher) And how would allowing these</p> <p>6 forms of ID prevent the goal of ensuring the integrity</p> <p>7 of the ballot box from being met?</p> <p>8 MR. SWEETEN: Same objection.</p> <p>9 A. I'll assert legislative privilege.</p> <p>10 Q. (By Mr. Fisher) And is that on the advice of</p> <p>11 your counsel, Senator?</p> <p>12 A. Yes.</p> <p>13 Q. Senator, if I could have you take a look at</p> <p>14 Exhibit 5, SB 14. Do you see any provision for nonphoto</p> <p>15 identification as was permitted under SB 362, which</p> <p>16 we've discussed previously?</p> <p>17 A. Yeah, let me look. I'm just reading it</p> <p>18 carefully. I'd have to, maybe, take a few more minutes</p> <p>19 and read it, but it would appear that if you didn't have</p> <p>20 a photo ID, you can cast a provisional ballot, but I'd</p> <p>21 have to go back and do an analysis.</p> <p>22 Q. Is it fair to say that the provisions regarding</p> <p>23 nonphoto identification that were included in 362</p> <p>24 meaning -- and we did the cross-referencing where we</p> <p>25 showed that two forms of identification under Section B</p>	<p style="text-align: center;">171</p> <p>1 A. I'd have to go back and read what that is. I</p> <p>2 don't --</p> <p>3 Q. Well, Senator, you were listed as an author of</p> <p>4 this bill. I understand that that might have been a</p> <p>5 special circumstance in this case, but you don't know</p> <p>6 what an election identification certificate is; is that</p> <p>7 correct?</p> <p>8 MR. SWEETEN: Objection, argumentative.</p> <p>9 A. I would have to go back and read exactly what</p> <p>10 it is.</p> <p>11 Q. (By Mr. Fisher) And you voted to support this</p> <p>12 bill; is that correct?</p> <p>13 A. Yes, I did.</p> <p>14 Q. Senator, are you familiar with the Indiana</p> <p>15 identification requirements?</p> <p>16 A. Vaguely.</p> <p>17 Q. Are you aware of any public records regarding</p> <p>18 what changed between SB 362 and SB 14 concerning the</p> <p>19 allowable forms of identification?</p> <p>20 MR. SWEETEN: You're asking about matters</p> <p>21 of the public records?</p> <p>22 A. Yeah. I don't recall being aware of anything.</p> <p>23 Q. (By Mr. Fisher) And you said you are vaguely</p> <p>24 familiar with the Indiana identification rights; is that</p> <p>25 correct?</p>
<p style="text-align: center;">170</p> <p>1 of 362, is it fair to say that that information is not</p> <p>2 present in SB 14?</p> <p>3 A. Based on this document and the legislation,</p> <p>4 yes.</p> <p>5 Q. And what changed between 2009 and 2011 that</p> <p>6 made two forms of nonphoto ID acceptable as an option in</p> <p>7 2009, but not in 2011?</p> <p>8 MR. SWEETEN: Objection, legislative</p> <p>9 privilege.</p> <p>10 A. Yeah, I would assert legislative privilege on</p> <p>11 advice of counsel.</p> <p>12 Q. (By Mr. Fisher) But you supported SB 362 based</p> <p>13 upon your previous testimony in 2009, correct?</p> <p>14 MR. SWEETEN: Objection, asked and</p> <p>15 answered, but you can answer.</p> <p>16 A. Yes.</p> <p>17 Q. (By Mr. Fisher) And at that time, did you feel</p> <p>18 that SB 362 accomplished its purpose?</p> <p>19 A. I would assert legislative privilege.</p> <p>20 MR. SWEETEN: Yeah. Objection,</p> <p>21 legislative privilege.</p> <p>22 A. On advice of counsel.</p> <p>23 Q. (By Mr. Fisher) Senator, SB 14 provides for</p> <p>24 what's called an election identification certificate.</p> <p>25 Do you know what that is?</p>	<p style="text-align: center;">172</p> <p>1 A. You know, in fact, I'm going to correct the</p> <p>2 record. I'm not even sure I'm aware of the Indiana</p> <p>3 law. I may have read something on it, but in the back</p> <p>4 of my memory somewhere, but I don't recall anything</p> <p>5 specific.</p> <p>6 Q. Did you conduct any analysis of photo</p> <p>7 identification laws in other states prior to authoring</p> <p>8 or supporting SB 14?</p> <p>9 MR. SWEETEN: Objection, legislative</p> <p>10 privilege.</p> <p>11 A. Yeah, assert legislative privilege on advice of</p> <p>12 counsel.</p> <p>13 Q. (By Mr. Fisher) Are you aware of the photo</p> <p>14 identification requirements required in Georgia?</p> <p>15 MR. SWEETEN: You can answer as to whether</p> <p>16 you're aware as you're sitting here.</p> <p>17 A. Yeah. Again, I may have read something</p> <p>18 somewhere, but nothing specifically.</p> <p>19 Q. (By Mr. Fisher) Did you ever do a side-by-side</p> <p>20 comparison of the bills at work in Georgia or Indiana</p> <p>21 and the proposed legislation of SB 14 in Texas?</p> <p>22 MR. SWEETEN: Objection, legislative</p> <p>23 privilege.</p> <p>24 A. I assert the legislative privilege on advice of</p> <p>25 counsel.</p>

<p style="text-align: center;">173</p> <p>1 Q. (By Mr. Fisher) Where did you read any 2 communications about -- you just mentioned you read 3 something about the Indiana law. Where did you read 4 that?</p> <p>5 A. I was just trying to answer the question 6 honestly, that I probably read something or something 7 vaguely, but I don't have any specifics of where I read 8 it or where it was or who wrote it. I just don't 9 recall.</p> <p>10 Q. Do you consider legislation in other states 11 prior to authoring or supporting legislation that's 12 being proposed in Texas?</p> <p>13 MR. SWEETEN: Objection, calls for matters 14 of legislative privilege.</p> <p>15 A. Yeah. I'll assert legislative privilege on 16 advice of counsel.</p> <p>17 Q. (By Mr. Fisher) In your work as a senator, a 18 Texas State Senator, do you think that it's important 19 that the laws that you pass have proved successful in 20 other states?</p> <p>21 MR. SWEETEN: In answering the question, 22 don't reveal your thoughts and mental impressions about 23 any specific piece of legislation, including 362 or 24 Senate Bill 14 or others discussed. You can answer as a 25 general matter that question as you're sitting here, but</p>	<p style="text-align: center;">175</p> <p>1 corner, you'll see pages numbers? 2 A. Okay. 3 Q. And obviously, those page numbers don't 4 correspond to the number of pages. 5 A. Right. 6 Q. But if you would take a look at Page 138, and 7 you'll see, towards the bottom of Page 138, you'll see 8 Floor Amendment 15. 9 A. Uh-huh. 10 MR. SWEETEN: What? Did you say 138? 11 MR. FISHER: Correct. 12 MR. SWEETEN: Okay. 13 Q. (By Mr. Fisher) 138. Floor Amendment 15. 14 A. Right. 15 Q. And if you would take a look at that. 16 A. Floor Amendment Number 15? 17 Q. Correct. 18 A. Okay. 19 Q. And let me know after you've had a chance. 20 A. Okay. I'm reading it. Okay. I'm ready to 21 take your questions. 22 Q. Floor Amendment 15 describes an amendment 23 offered by Senator Davis; is that correct? 24 A. Yes, sir. Yes. Uh-huh. 25 Q. And could you describe that amendment for me?</p>
<p style="text-align: center;">174</p> <p>1 don't reveal matters of privilege as to a specific bill. 2 A. Yeah. In general, I'm curious, but -- but I'm 3 interested, but it doesn't -- it doesn't necessarily 4 guide me to support or not to support legislation. 5 Q. (By Mr. Fisher) So as a senator, as a Texas 6 State Senator, whether legislation has been successful 7 in other states does not guide your decision about 8 whether to support it in Texas; is that correct? 9 MR. SWEETEN: Objection, asked and 10 answered. Also, objection to the extent it seeks 11 matters or reveals his mental impressions, thought 12 process, and the legislative process as to any bills. 13 But to the extent it does not do so, you can answer as 14 you're sitting here. 15 A. Yeah. I would assert legislative privilege on 16 my thought process on making those decisions. 17 Q. (By Mr. Fisher) Okay. Senator, I'm going to 18 hand you what's been marked previously as Exhibit 47. 19 A. Okay. 20 Q. So Exhibit 47, it's titled Senate Journal, 82nd 21 Legislature, Regular Session, and it's dated January 22 26th, 2011. Is that correct, Senator? 23 A. Yes, sir. 24 Q. So I'm going to turn your attention to what on 25 the document -- if you look at the upper right-hand</p>	<p style="text-align: center;">176</p> <p>1 A. I'll read what it says here. "A driver's 2 license or personal identification card issued to the 3 person by the Department of Public Safety that has not 4 --" and then I don't know if she crossed it through or 5 it was crossed through. It's a little confusing to read 6 these after the fact who did what crossing out. 7 " -- expired or has expired after the day 8 of the most recent general election." And then it looks 9 like cross out after "United States military," and then 10 a cross out "birth certificate or other documents." To 11 be very honest with you, it's a little confusing who did 12 the crossing out here, but I'm not so sure what this 13 amendment was trying to accomplish in reading it today. 14 Q. Well, how did you vote on the amendment at the 15 time, Senator? 16 A. I voted against. I voted that we -- voted to 17 table. I have to see here. I voted -- this can be 18 confusing also. I voted, "Yes, to table." 19 Q. To table the amendment; is that correct? 20 A. Yes. Correct. 21 Q. And what does it mean to table an amendment, 22 Senator? 23 A. That means to not allow it to come to the floor 24 for a vote. 25 Q. And if you look at Section 1 of this amendment</p>

<p style="text-align: center;">177</p> <p>1 offered by Senator Davis. 2 A. Right. 3 Q. And I understand your contention that it is 4 somewhat confusing. But if we look at the last line 5 there, and I guess the "That has not expired," where it 6 has "expired" after date of the most recent general 7 election, is that different than what SB 14 ended up 8 looking like, based on what we've looked at here today? 9 A. I don't know. I mean... 10 Q. Well, you can took a look, Senator, at SB 14, 11 and I think you'll find that it's -- there is some 12 mention in there of 60 days as an expiration? 13 A. Oh, yes. Okay. I recall that. Yes. 14 Q. Actually, does this amendment, Senator, look 15 like more like 362, a bill which you also supported? 16 A. No, it doesn't look similar to that, because 17 Senate Bill 362, I think, if I go back from memory, said 18 something about two years, so this would be not be 19 similar to -- 20 Q. How often are general elections held in Texas? 21 A. Every two years. 22 Q. And what does the language here say about the 23 expiration dates of the identification? 24 A. "The most recent general election." 25 Q. Is it fair to say that this is similar to</p>	<p style="text-align: center;">179</p> <p>1 could turn to Page 130, and that would be in the upper 2 left-hand corner of this page, 130. 3 A. Okay. 4 Q. And this one is pretty much all contained on 5 the same page here. It starts with, "Senator Ellis 6 offered the following amendments of the bill," and I'm 7 referencing Floor Amendment 30. 8 A. All right. 9 Q. And you can go ahead and take a look at that, 10 and let me know after you've had a chance to take a look 11 at that, Senator. 12 A. I've read it, or glanced through it. 13 Q. So is it fair to say that Senator Ellis 14 introduced an amendment that would have required the 15 Secretary of State to conduct a study, and that that 16 study would have included information about the number 17 of eligible voters who are prevented from voting or had 18 to vote provisionally because of a lack of an ID, and an 19 analysis of this group by race, as well as an analysis 20 of the impact on racial and ethnic minorities? 21 A. I believe that is a fair representation of his 22 amendment. 23 Q. And how did you vote on this amendment, 24 Senator? 25 A. I voted to table the amendment.</p>
<p style="text-align: center;">178</p> <p>1 SB 362, as far as the expiration date, if general 2 elections are held every two years? 3 A. I'd have to go back and do an exact 4 comparison. They're similar in time. 5 Q. So what was the purpose of your vote to table 6 an amendment that reflects something that you supported 7 in 362? 8 MR. SWEETEN: Objection. Don't reveal -- 9 don't answer the question. It calls for matters subject 10 to the legislative privilege. 11 A. Yeah. I assert legislative privilege. 12 Q. (By Mr. Fisher) And how would this amendment 13 have interfered with the goals in enacting SB 14? 14 MR. SWEETEN: Same objection, legislative 15 privilege. Don't answer the question. 16 A. Right. I assert legislative privilege on the 17 advice of counsel. 18 Q. (By Mr. Fisher) Sitting here today, do you have 19 any concerns about not including this amendment in 20 SB 14? 21 MR. SWEETEN: Same objection, legislative 22 privilege. 23 A. Yeah. I assert legislative privilege on advice 24 of counsel. 25 Q. (By Mr. Fisher) All right. Senator, if we</p>	<p style="text-align: center;">180</p> <p>1 Q. And what was the purpose of your vote to table 2 this amendment? 3 MR. SWEETEN: Don't answer the question. 4 It calls for matters subject to the legislative 5 privilege. 6 A. I assert legislative privilege on advice of 7 counsel. 8 Q. (By Mr. Fisher) And how would this -- 9 conducting this study have interfered with your stated 10 goals in enacting SB 14? 11 MR. SWEETEN: Same objection. It calls 12 for matters of legislative privilege. 13 A. I assert legislative privilege. 14 Q. (By Mr. Fisher) And is that on the advice of 15 your counsel? 16 A. Yes, it is. 17 Q. Do you have any concerns about not conducting 18 such a study, Senator, as you sit here today? 19 MR. SWEETEN: Same objection. It calls 20 for matters of legislative privilege, that is, thoughts 21 and mental impressions about the bill. 22 A. Yeah. Legislative -- assert legislative intent 23 on advice of the counsel. 24 Q. (By Mr. Fisher) Were you concerned that such a 25 study would show that minorities are disproportionately</p>

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1 impacted by SB 14?

2 MR. SWEETEN: Same objection. It calls
3 for matters of legislative privilege.

4 A. Assert legislative privilege on the advice of
5 counsel.

6 Q. (By Mr. Fisher) Senator, do you remember the
7 Floor consideration of SB 14 at all?

8 MR. SWEETEN: You can answer at phrased.

9 A. Yeah, not much of it.

10 Q. (By Mr. Fisher) And was your role during the
11 Floor consideration of SB 14?

12 A. My role in SB 14, my primary role was, I
13 believe, offering an amendment to the bill. There may
14 have been -- you know, if I look at the record, I may
15 recall something else. Once again, we spend a lot of
16 time on the Floor, so I don't remember every bill, every
17 instance. But do I remember -- I believe I remember
18 that correctly.

19 Q. Do you remember any concerns raised about
20 SB 14's impact on minority voters?

21 MR. SWEETEN: You're asking about on the
22 Floor?

23 MR. FISHER: Correct.

24 MR. SWEETEN: You can answer as phrased.

25 A. Yeah, in general, you know, those are

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1 objections by members who opposed the bill.

2 Q. (By Mr. Fisher) And who were those members?

3 A. Our -- I don't know that every Democrat said
4 it, but various Democrats.

5 Q. And what were those concerns?

6 A. I don't recall specifically.

7 Q. Were they concerns about the impact of SB 14 or
8 minority voters? Is that fair to say as a general
9 matter?

10 A. That's probably fair to say on a general
11 matter.

12 Q. Was part of your role -- and you are listed as
13 an author of SB 14, and we have discussed how that --

14 A. Right.

15 Q. -- how that might not have been, you know,
16 completely applicable in this case. But was part of
17 your role to answer any questions about the bill?

18 A. No.

19 Q. And you did say that you offered
20 amendments during the Floor debate of SB 14; is that
21 correct?

22 A. I think I offered an amendment.

23 Q. Okay. If we can turn to Page 123, and you'll
24 see Floor Amendment 18.

25 A. All right.

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1 Q. And this bill says, "Senator Hinojosa offered
2 the following amendment to the bill," but your name is
3 listed at the bottom as well.

4 A. Yes. Yes.

5 Q. And so was this amendment offered by you and
6 Senator Hinojosa?

7 A. It was.

8 Q. And what was the purpose of this amendment?

9 MR. SWEETEN: Don't discuss matters
10 subject to the legislative privilege, including your
11 mental impressions about legislation.

12 A. Right. This --

13 MR. SWEETEN: You can reveal matters of
14 the public record, but do not discuss your mental
15 impressions or thoughts or opinions.

16 A. Yeah. On the -- there's -- I'm sure there's a
17 public record of the reasons that Senator Hinojosa
18 gave. I don't know if I spoke on this or not.
19 Sometimes out of time and just senatorial respect, he
20 was the author of the amendment, and I was the co-autho
21 of the amendment, so he may have been the only one to
22 speak on the bill. And whatever he said would have been
23 the record. I don't know if I spoke on the bill or not.
24 I don't remember.

25 Q. Well, just looking at it, I mean, what was the,

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1 on its face, the purpose of this amendment?

2 A. The amendment says that if you have a license
3 to carry a concealed handgun, that that would be a form
4 of photo ID that you could use to vote.

5 Q. Okay. And so then it's fair to say that this
6 was an addition to the forms of photo identification
7 that were previously allowable under SB 14?

8 A. Yes. It was -- I thought, yeah, it was a form
9 of a change.

10 Q. So it was an addition. It expanded the
11 universe of photo identification that was acceptable
12 under SB 14; is that fair?

13 A. Yes, sir.

14 Q. And do you know the racial composition of
15 license to carry a concealed handgun license holders?

16 MR. SWEETEN: In answering the question,
17 don't reveal conversations you've had with state
18 agencies, other legislators, legislative staff, state
19 departments, you know, within the state of Texas, or
20 your mental impressions or thoughts about the bill.

21 A. Yeah. I don't have the numbers on that.

22 Q. (By Mr. Fisher) Are you aware of whether any
23 staff or legislator investigated the racial composition
24 of folks that carried a concealed handgun license?

25 MR. SWEETEN: Same objection. It calls

<p style="text-align: center;">185</p> <p>1 for matters subject to the legislative privilege. 2 A. Yeah, I'm not aware if that happened. 3 Q. (By Mr. Fisher) There was -- did you have any 4 communications with anyone concerning the composition of 5 concealed handgun license holders, as far as racial 6 composition?</p> <p>7 MR. SWEETEN: You can answer if you had a 8 conversation. You can identify one way or the other if 9 you did or didn't.</p> <p>10 A. Yeah. I don't -- I don't recall that 11 conversation. I don't recall a conversation on that. I 12 think earlier I testified -- you asked me if I had a 13 conversation about this bill, and I said without talking 14 about the conversation, I referred to Senator Hinojosa. 15 He's a Democrat. I'm a Republican. We both have a 16 concealed carry license, so -- but I don't recall any -- 17 you know, anything beyond that.</p> <p>18 Q. (By Mr. Fisher) Before supporting this 19 amendment, were you aware of the number of concealed 20 handgun license holders in Texas</p> <p>21 MR. SWEETEN: Objection, calls for matters 22 subject to the legislative privilege, including his 23 mental thoughts and impressions about legislation or 24 communications that he with the designated individuals 25 we have discussed today.</p>	<p style="text-align: center;">187</p> <p>1 background conversation." "Yeah, about 400,000 2 roughly." And then Senator Hinojosa. "About 415,000." 3 So, after the word, "Senator Patrick," do 4 you remember, was that you offering the number of 5 concealed handgun license holders?</p> <p>6 A. To try to answer your question as accurately as 7 I can, if you go back to the previous page, I spoke 8 briefly, and I think earlier testimony I suggested -- I 9 didn't remember until I read it -- that usually you -- 10 professional courtesy to the author of the amendment. 11 And so I simply stood up on the Floor and thanked 12 Senator Hinojosa, and then I said, "Thank you, Senator. 13 Appreciate it, thank you," which would indicate I turned 14 off my microphone and sat down. And then Senator Ellis 15 was recognized by the Chair. So I would not have been 16 on mic, because we press a button to speak, and once you 17 conclude your conversation, you turn your button off and 18 sit down. So, there would have been no reason for me to 19 still be standing with my mic on the Floor, so I don't 20 believe that was me.</p> <p>21 Q. Well, Senator Patrick, I mean, that seems 22 exactly what happened here. I mean, we have Senator 23 Ellis talking, then we have some inaudible background 24 conversation, and someone offering a number of 415,000.</p> <p>25 A. Right.</p>
<p style="text-align: center;">186</p> <p>1 A. Yeah. I would assert legislative privilege. 2 Q. (By Mr. Fisher) And is that one the advice of 3 your counsel, Senator? 4 A. Yes. 5 Q. Okay. 6 MR. FISHER: Well, I'd would like to offer 7 at this time Exhibit 166. 8 (Exhibit 166 marked for identification.) 9 Q. (By Mr. Fisher) So Exhibit 166, we have the 10 Texas Senate Staff Services, 82nd Legislative Session, 11 Excerpts Senate Bill 14, January 26th 2011; is that 12 correct? 13 A. Yes, sir. 14 Q. And if you'd take a look at the third page of 15 this document, and it is, at the top, Page 7, but it's 16 the third page of this excerpt. 17 A. Yes. 18 Q. And so it is hard to tell from the transcript 19 here, but either you or Senator Hinojosa answers with a 20 number of licensed -- concealed handgun license 21 holders. So we have Senator Ellis who says, "You don't 22 know, do you?" Senator Hinojosa says, "About four." 23 Senator Ellis says, "Senator Patrick," and then we see 24 "450 --" "inaudible overlapping conversation, inaudible 25 background conversation --" "About 415,000." "Inaudible</p>	<p style="text-align: center;">188</p> <p>1 Q. And from your reading of this transcript, do 2 you believe that wasn't you that you offered that 3 number? 4 A. I couldn't be certain, to use an earlier word. 5 I don't think that was me. I think Senator Ellis is 6 probably look at me sitting down and just saying -- 7 because, Senator Hinojosa would have been standing the 8 whole time. And once you finish, you sit down. You 9 don't stand behind your desk, so I don't think that was 10 me. 11 Q. If it wasn't you, Senator Patrick, who was it? 12 A. It could have been Senator Hinojosa. I mean, I 13 just don't know. I just don't know. It looks like he 14 -- it looks like he started to answer the question, and 15 then it looked he finished answering the question. 16 Q. Do you think it was important to know the 17 number of holders of a concealed handgun license before 18 offering this amendment? 19 MR. SWEETEN: Objection, it calls for 20 matters of legislative privilege. 21 A. Yeah. I would assert legislative privilege. 22 Q. (By Mr. Fisher) Well, it's being asked for in 23 the public record by Senator Ellis. Do you think 24 Senator Ellis thought it important to know this number? 25 He does ask for the number.</p>

<p style="text-align: center;">189</p> <p>1 MR. SWEETEN: Objection, calls for 2 speculation.</p> <p>3 A. Yeah, I can't speculate on that.</p> <p>4 Q. (By Mr. Fisher) Just based on what's in front 5 of you, Senator, does it look like Senator Ellis asked a 6 question about the number license to carry holders?</p> <p>7 MR. SWEETEN: You can answer that question 8 as phrased.</p> <p>9 A. Yes. Yes, it did.</p> <p>10 Q. (BY MR. FISHER) And you said earlier you didn't 11 know the number of registered voters that did not 12 possess one of the required forms of ID identified in 13 SB 14, or did you assert privilege to the answer to that 14 question?</p> <p>15 MR. SWEETEN: Objection. That calls for 16 matters subject to the legislative privilege, the 17 thoughts, mental impressions, opinions about legislation 18 or analysis.</p> <p>19 A. Yeah, I believe we asserted privilege. You'd 20 have to go back, but I believe we asserted legislative 21 privilege.</p> <p>22 Q. (By Mr. Fisher) So in response to a question 23 about the number of registered voters that did not 24 possess one of the required forms of ID identified in 25 SB 14, you asserted legislative privilege, but we did</p>	<p style="text-align: center;">191</p> <p>1 A. Yeah. 2 Q. And so, Senator, we do have Senator Ellis 3 clearly asking a question about the number of 4 individuals that would have been covered by your 5 amendment; is that correct? 6 A. Yes. 7 Q. And yet you voted to table an amendment that 8 would have potentially revealed numbers of voters that 9 did not have other forms of ID encompassed within SB 14. 10 is that correct? 11 MR. SWEETEN: Objection, compound. 12 Objection, asked and answered. 13 A. Yes. I mean -- sorry. 14 MR. SWEETEN: You can answer it. I think 15 you've answered it. 16 A. Yeah. I think I've answered it. I'm sorry. 17 Q. (By Mr. Fisher) I'm sorry, Senator. What was 18 the answer? 19 A. I got distracted. I'm sorry. I turned my 20 phone off. Sorry. 21 MR. SWEETEN: Yeah. I mean, we can do it 22 again, but I think the record -- he said, and I think 23 we're done. But whatever you want to do. 24 MR. FISHER: Can we reread the question, 25 please.</p>
<p style="text-align: center;">190</p> <p>1 discuss the fact that you voted to table an amendment 2 that would have required a study by the Secretary of 3 State regarding the number of racial and ethnic 4 minorities without ID; is that correct?</p> <p>5 MR. SWEETEN: You can testify about 6 what --</p> <p>7 A. Yeah. The public record would indicate that. 8 You are correct.</p> <p>9 Q. (BY MR. FISHER) And do you find any 10 inconsistency, as you sit here today, with the fact that 11 a study was not -- you voted to table an amendment that 12 would have required a study regarding the number of 13 racial and ethnic minorities without ID, yet offered an 14 amendment to increase the number of voters who could 15 show ID with a license to carry a concealed handgun 16 license?</p> <p>17 MR. SWEETEN: Senator Patrick, don't 18 reveal your thoughts, mental impressions, or opinions 19 about legislation or the legislative process in 20 answering this question, nor conversations that we've 21 discussed.</p> <p>22 A. Yeah. I would assert my legislative privilege 23 on that.</p> <p>24 Q. (By Mr. Fisher) And that's on the advice of 25 your counsel?</p>	<p style="text-align: center;">192</p> <p>1 (The requested portion was read back by 2 the court reporter.) 3 A. Yes. Yeah, I voted against -- I voted to table 4 the amendment.</p> <p>5 Q. (BY MR. FISHER) Senator, how did the exception 6 for individuals with disabilities come to be included in 7 SB 14?</p> <p>8 MR. SWEETEN: Don't reveal matters that 9 are your thought processes, mental impressions about the 10 bill. That is a matter of legislative privilege.</p> <p>11 A. Yeah. I assert legislative privilege on the 12 advice of counsel.</p> <p>13 Q. (By Mr. Fisher) Did you offer an amendment that 14 included an exception for individuals with disabilities 15 under SB 14?</p> <p>16 MR. SWEETEN: You can testify. That's a 17 matter of public record.</p> <p>18 A. Yes. 19 Q. (By Mr. Fisher) Okay. If you would turn to 20 page 133 of Exhibit 47, which is the big Senate Journal 21 with all the amendments that we were recently looking 22 at. 23 A. Okay. Page 147? 24 Q. Page 133. 25 A. All right.</p>

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1 Q. And it starts with, "Senator Patrick offered
 2 the following amendment to the bill." If you could take
 3 a look at that, please.
 4 A. Okay. "Senator Patrick." Okay. I'm good.
 5 Q. And was this an exception for individuals with
 6 disabilities under SB 14? Is that a fair
 7 characterization of this amendment?
 8 A. It was an amendment for the exception with
 9 certain people with disabilities. Not all, but some.
 10 Q. And what were the circumstances under which
 11 this exception was written into SB 14?
 12 MR. SWEETEN: I'm going to object. I
 13 think it calls for his mental impression, thoughts,
 14 opinions, motivation regarding legislation and reveals
 15 matters subject to legislative privilege.
 16 Q. (By Mr. Fisher) Senator?
 17 A. Yeah. I would certainly assert privilege.
 18 Q. On the advice of your counsel? Yes?
 19 A. Yes, sir.
 20 Q. What was the purpose of this amendment,
 21 Senator?
 22 A. It -- what it says here in the record, that an
 23 applicant who wishes to receive an exemption on the
 24 basis of a disability for the requirements of Section
 25 63.001 must include a certificate from a physician that

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1 A. Yes, I have.
 2 Q. Does this change your recollection about the
 3 purpose of the amendment you offered concerning
 4 individuals with disabilities?
 5 A. Well, it doesn't change my view. I was just
 6 trying to answer your question accurately last time,
 7 that the amendment spells out, it says what it says, and
 8 I -- you know, I haven't read this or seen before today,
 9 so I don't remember exactly what I said, you know, over
 10 a year ago.
 11 Q. Do you remember that this hearing took place,
 12 Senator?
 13 A. Oh, yes. I mean, yeah, these are my words,
 14 but, I mean, I didn't remember specifically until
 15 reading here what I said.
 16 Q. Senator, if you look about halfway down, maybe
 17 just a little more than halfway, you'll see a sentence that
 18 starts, "They can, of course, vote by mail, as they do
 19 now, by checking off the box, but many members of our
 20 community of the disabled will actually want to go vote,
 21 but it could be a burden to receive, to go get that
 22 photo if they don't have one." Do you see that
 23 sentence?
 24 A. Yes, sir.
 25 Q. So why would it be a burden for an individual

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1 has a disability as defined by Section 21.002 of the
 2 Labor Code, and --
 3 Q. Senator, are you reading from the bill right
 4 now?
 5 A. Yes, I am.
 6 Q. And what's the general purpose of this
 7 amendment, Senator, an amendment you offered?
 8 A. Yeah. The purpose of the amendment is what it
 9 says here in the Journal, it includes and states what
 10 the purpose is.
 11 Q. So I give you Exhibit 167.
 12 (Exhibit 167 marked for identification.)
 13 Q. (By Mr. Fisher) Exhibit 167 is a similar
 14 transcript that reads, "Texas Senate Staff Services,
 15 82nd Legislative Session."
 16 A. Okay.
 17 Q. "Senate Bill 14, January 26, 2011." Is that a
 18 fair characterization, Senator?
 19 A. Yes, sir.
 20 Q. So if you take a look at the second page of
 21 this document, you'll see your name, and this is after
 22 the president has said the Chair recognizes Senator
 23 Patrick to explain Floor Amendment 35. If you would
 24 take a look at that paragraph after your name, Senator,
 25 please.

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1 described herein to get a photo ID?
 2 MR. SWEETEN: Don't reveal matters of
 3 legislative privilege. You can answer based upon on the
 4 public record.
 5 A. Yeah. That -- you know, the public record
 6 speaks for itself.
 7 Q. (By Mr. Fisher) Senator, how could it be a
 8 burden for anyone to get a photo ID, as you have
 9 indicated here in this public statement, that it could
 10 be a burden to receive, to go and get that photo ID if
 11 they don't have one?
 12 MR. SWEETEN: You can testify about
 13 matters of the public record, but don't reveal matters
 14 that are subject to the legislative privilege, including
 15 your thoughts, mental impressions, opinions about
 16 pending legislation, including Senate Bill 14.
 17 A. Okay. Yeah. I assert legislative privilege
 18 because it does apply to my thinking behind that. So on
 19 advice of counsel, legislative privilege.
 20 Q. (By Mr. Fisher) Senator, you're not going to
 21 answer questions about a public statement you made on
 22 the record regarding an amendment you to Senate Bill 14;
 23 is that correct?
 24 MR. SWEETEN: Let's be clear. He is
 25 answering questions about what's on the record, and I

<p style="text-align: center;">197</p> <p>1 will allow him to continue to do so, but he's not going 2 to reveal his thoughts, mental impressions, opinions, 3 motivations about legislation. That's subject to the 4 privilege.</p> <p>5 A. I assert legislative privilege on advice of 6 counsel.</p> <p>7 Q. (By Mr. Fisher) As a general matter, how could 8 it be a burden for someone who is disabled to go and get 9 a photo ID from a DPS location in Texas?</p> <p>10 MR. SWEETEN: Same objection. Same 11 instruction.</p> <p>12 A. I assert legislative privilege on advice of 13 counsel.</p> <p>14 Q. (By Mr. Fisher) As we sit here today, this 15 amendment aside and SB 14 aside, how could it be a 16 burden for someone who is disabled to get a photo ID?</p> <p>17 MR. SWEETEN: Same -- oh, wait. You're 18 asking him, as we're sitting here today and not in the 19 context of legislation?</p> <p>20 MR. FISHER: Correct.</p> <p>21 MR. SWEETEN: Okay. You can answer to the 22 extent you would not be revealing matters of legislative 23 privilege in doing so.</p> <p>24 THE WITNESS: I'd like to ask my -- I'd 25 like to ask counsel a question, if I may.</p>	<p style="text-align: center;">199</p> <p>1 you. It's not a big deal. 2 MR. DUNN: Okay 3 EXAMINATION 4 BY MR. DUNN:</p> <p>5 Q. Senator, my name is Chad Dunn. I represent 6 Defendant Intervenors, a group of individuals that are 7 called the Kennie Intervenors. But all of the 8 intervenors in this case have agreed that one lawyer 9 will get together at least at most depositions and do 10 the questions for intervenors, so I sort of represent 11 all of them, I suppose, in the next few minutes just in 12 asking you questions.</p> <p>13 A. Okay.</p> <p>14 Q. I do want you to understand upfront that the 15 questions I'm going to ask only relate to the public 16 record. And I'll try to demonstrate that in each 17 question. But in none of my questions do I want you to 18 get into any legislatively privileged materials, okay? 19 I just want to talk about what's in the public record 20 and what you recall, all right?</p> <p>21 But first just a little bit about your 22 office and your election and district. Your district, I 23 believe, you said was West, Northwest Harris County; is 24 that right?</p> <p>25 A. West Harris County, not Northwest.</p>
<p style="text-align: center;">198</p> <p>1 MR. FISHER: We can go off the record. 2 (Recess from 4:50 p.m. to 4:59 p.m.) 3 (Pending question read back by court 4 reporter.)</p> <p>5 MR. SWEETEN: I'm going to object to the 6 extent the question is calling for matters subject to 7 the legislative privilege. It could include his 8 opinions, mental impressions about any legislation. So 9 I would instruct him not to answer on that basis, 10 because I think you're asking him to reveal his thought 11 processes about Senate Bill 14.</p> <p>12 A. So I would assert legislative privilege on my 13 thought process.</p> <p>14 Q. (By Mr. Fisher) You're asserting based on the 15 advice of your counsel, Senator?</p> <p>16 A. Yes, sir.</p> <p>17 Q. At this time, I will turn it over to the 18 defendant intervener who'll ask you questions.</p> <p>19 MR. SWEETEN: Are you passing the witness, 20 Spencer?</p> <p>21 MR. DUNN: No, he's not, and I hope you 22 can accommodate me. But he's just going to let me do 23 about 20 minutes and then we'll be done, and then he'll 24 continue, because I have to leave early today.</p> <p>25 MR. SWEETEN: Chad, we'll accommodate</p>	<p style="text-align: center;">200</p> <p>1 Q. And for our judges who may not know, that's the 2 Houston -- that's the county that Houston's in; is that 3 right?</p> <p>4 A. Correct.</p> <p>5 Q. All right. How would you describe the racial 6 makeup of that district?</p> <p>7 A. I think I've testified to that earlier. I was 8 not sure if that, if my answer was based on registered 9 voters or the population of the district, because I 10 don't recall. But I believe I've seen a document or 11 something in writing that 39 percent of Senate District 12 7, again, I don't know if that's people or registered 13 voters, are Black and Hispanic.</p> <p>14 Q. Do you -- are there areas or pockets of your 15 district that have a higher degree of Latino or African- 16 American population?</p> <p>17 A. Yeah, not to my knowledge.</p> <p>18 Q. Is it fair to say that your district is a 19 predominantly Anglo district, at least in terms of those 20 that control the outcome of the election?</p> <p>21 A. You know, I don't know that I would 22 characterize that. I don't look -- I don't look at the 23 racial makeup of people who vote for me or vote against 24 me.</p> <p>25 Q. Do you see a number of Latinos and African-</p>

<p style="text-align: center;">201</p> <p>1 Americans at political events you go to?</p> <p>2 A. I see a greater number of Latinos than I see</p> <p>3 African-Americans. And I believe, again, looking back</p> <p>4 at the documentation, that there are more -- of that 39</p> <p>5 percent, more than half are Latino; can't be certain of</p> <p>6 that, but that seems to be. It's not a large African-</p> <p>7 American population in the district.</p> <p>8 Q. Do you have some what you would consider to be</p> <p>9 key or large, whether it's donors or supporters or</p> <p>10 activists on your behalf who are Latino or African-</p> <p>11 American?</p> <p>12 A. You know, with the Latino population, you don't</p> <p>13 always know someone is Latino, you know. Not</p> <p>14 necessarily by name, not necessarily by appearance. So</p> <p>15 I really don't have the answer to that question.</p> <p>16 Q. Well, could you name for us, for example, a</p> <p>17 donor of yours that's African-American or Latino?</p> <p>18 A. The Latinos I really couldn't because I -- you</p> <p>19 know, I just don't know. There may be some people who</p> <p>20 are Latino that I'm not aware of and some people who I</p> <p>21 thought may be Latino who are not. I just don't know.</p> <p>22 African-Americans, because the population</p> <p>23 is relatively small in the district, I'm trying to</p> <p>24 think. There are some, but I just can't remember</p> <p>25 their -- I can't remember their name.</p>	<p style="text-align: center;">203</p> <p>1 experience dealing with minorities in your district,</p> <p>2 that minority citizens are supportive or not supportive</p> <p>3 of conservative policies?</p> <p>4 A. Would you repeat that?</p> <p>5 Q. Sure. In your experience in your district with</p> <p>6 the minority population you've described earlier that</p> <p>7 you've interacted with and represent, is it your</p> <p>8 experience that that minority population supports</p> <p>9 conservative causes that you often support?</p> <p>10 A. I think many do, and that would be indicative</p> <p>11 of the fact that in a general election, I receive close</p> <p>12 to 70 percent of the vote.</p> <p>13 Q. And so have you ever done any sort of figuring</p> <p>14 or analysis to figure out in the 30 percent, roughly,</p> <p>15 that don't support you, how much of them are made up of</p> <p>16 Latino or African-American citizens?</p> <p>17 A. I don't know.</p> <p>18 Q. That could be all minority citizens. It could</p> <p>19 be all Anglo or a mix. You don't -- you're not really</p> <p>20 sure.</p> <p>21 A. It wouldn't be all of any one group. It would</p> <p>22 be a mixture of all groups.</p> <p>23 Q. All right. When you prepare your election</p> <p>24 campaign -- and let's see, you ran for Senate in 2008?</p> <p>25 A. 2000 -- began my campaign 2005 for the 2006</p>
<p style="text-align: center;">202</p> <p>1 Q. Would you describe your district as largely</p> <p>2 suburban?</p> <p>3 A. Yeah. I -- I believe under the new</p> <p>4 redistricting, I'd have to verify the new number. But</p> <p>5 previously, it was about 20 percent Houston and 80</p> <p>6 percent unincorporated Harris County. So mostly</p> <p>7 suburban.</p> <p>8 Q. Senator, before you got into the Senate, you</p> <p>9 worked in radio, and you've testified that. I'm not</p> <p>10 going to try and cover that again. You were and have</p> <p>11 been for quite some time a radio host; is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. And would be it fair to describe that your</p> <p>14 activities of a radio host were in support of</p> <p>15 conservative, politically conservative positions?</p> <p>16 A. Correct.</p> <p>17 Q. In fact, I think you've described yourself</p> <p>18 publicly as, you know, one of the more conservative</p> <p>19 members of the legislature; is that fair?</p> <p>20 A. Correct.</p> <p>21 Q. And you haven't been shy about talking about</p> <p>22 the support you have for conservative and very</p> <p>23 conservative initiatives; is that true?</p> <p>24 A. Correct.</p> <p>25 Q. Is it true that in Texas, anyway, in your</p>	<p style="text-align: center;">204</p> <p>1 primary general election.</p> <p>2 Q. You had quite a contested Republican primary as</p> <p>3 I recall; is that true?</p> <p>4 A. I think there were 3 other candidates.</p> <p>5 Q. And at least two of the other candidates were</p> <p>6 elected officials.</p> <p>7 A. They were House members.</p> <p>8 Q. State House members?</p> <p>9 A. Chairmen.</p> <p>10 Q. And who represented that area?</p> <p>11 A. Well, a Senate district is --</p> <p>12 Q. Part of the areas.</p> <p>13 A. Yeah. They represented smaller pieces of the</p> <p>14 area.</p> <p>15 Q. Sure. One of the things that allowed you to</p> <p>16 have success, and I'm not down-playing any of the</p> <p>17 reasons that you had success, but one of the reasons was</p> <p>18 your exposure on the radio; would you agree?</p> <p>19 A. I would agree that -- actually, I would</p> <p>20 disagree, because I'd be, again, the campaign, and most</p> <p>21 people said I may listen to you on the radio, but why</p> <p>22 should I vote for you?</p> <p>23 Q. Okay.</p> <p>24 A. So I had to convince people that I was the</p> <p>25 right guy. Obviously, I had name ID, but my opponents</p>

<p style="text-align: center;">205</p> <p>1 outspent me and also had name ID.</p> <p>2 Q. In that election, one of the ways you were able 3 to defeat the other elected officials who were running 4 against you was to emphasize how conservative you vote 5 and the conservative policies you support; is that true?</p> <p>6 A. Correct.</p> <p>7 Q. Since you joined the Senate, you have led a 8 number of initiatives that to make the Senate more 9 conservative.</p> <p>10 A. Correct.</p> <p>11 Q. In fact, one of the more recent examples, I 12 believe, is you have requested that in the event the 13 Lieutenant Governor is elected to Senate, the United 14 States Senate, and resigns, you want just the Republican 15 caucus to vote for the replacement Lieutenant Governor; 16 is that true?</p> <p>17 A. Or at least the majority.</p> <p>18 Q. I beg your pardon?</p> <p>19 A. Or the majority of the Republican caucus.</p> <p>20 Q. I see. But in other words, you want 21 Republicans to decide who the Lieutenant Governor would 22 be to the exclusion of the Democrats?</p> <p>23 A. Not to the exclusion but to the majority. 24 There are currently 19 Republicans and 12 Democrats. 25 And my public statements have been that at least a</p>	<p style="text-align: center;">207</p> <p>1 Q. All right. When you -- when the Senate 2 considers measures, it typically has to have 21-votes in 3 order to take one out of order; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And there's been a lot of testimony about 6 this. I'm not going to try to cover it here with you, 7 but would it be okay if I called out the 21-vote rule?</p> <p>8 A. Yes.</p> <p>9 Q. All right. With respect to the 21-vote rule, 10 how many times in your service, and if you remember from 11 before your service, has that rule been overruled or 12 sort of stepped around on a piece of legislation?</p> <p>13 A. I -- I don't know how many times previous to me 14 joining the Senate, but during special session, which we 15 had one last session, the 21-vote rule absolutely was 16 not in play on any bill. So it happens on certain 17 pieces of legislation in the regular session at times, 18 and then in special sessions, we don't invoke it.</p> <p>19 And I -- and I believe from history, stand 20 to be corrected, that the precedent was set when 21 Democrats controlled the Senate, and there was a special 22 session, that they did not invoke the 21 rule on special 23 session. And both Democrats and Republicans have 24 majorities or -- or Lieutenant Governors have -- have 25 put the 21-vote rule aside at various times.</p>
<p style="text-align: center;">206</p> <p>1 majority. In fact, I recently said it would be good if 2 there were 11 or 12 Republicans and 3 or 4 Democrats. 3 That would be a nice -- you know, could be more 4 Republicans, but it would be nice to have a mix, but it 5 should be a majority in my view.</p> <p>6 Q. Well, one of the proposals you've thrown out is 7 the Republicans should caucus alone, agree on a 8 Lieutenant Governor candidate, and then have the vote in 9 the chamber with the rest of the senators. Was that not 10 your proposal?</p> <p>11 A. I -- I think my proposal, my most recent 12 conversations on the record have been that I would like 13 to see the Republicans select a candidate. And if -- in 14 fact, I remember specifically saying it, because it was 15 a televised interview, but you know, if it's 12 16 Republicans and 3 Democrats or 4 Democrats, and that 17 would be a positive thing.</p> <p>18 Q. Now, in the Texas Senate, the only members who 19 are of Latino or African-American descent are Democrats; 20 is that true?</p> <p>21 A. In the Texas Senate?</p> <p>22 Q. Yes, sir.</p> <p>23 A. I just want to be sure. There are no African- 24 American Republican senators. I'm trying to -- do we 25 have any Latino senators? I don't believe so.</p>	<p style="text-align: center;">208</p> <p>1 Q. This -- this most recent special session that 2 you discussed, that -- the priority during that session 3 was a congressional redistricting; was it not, the 4 special session?</p> <p>5 A. No, it was not.</p> <p>6 Q. The most recent special session?</p> <p>7 A. No, it was not a priority. It was part of it, 8 but was not the priority.</p> <p>9 Q. Other than this Senate Bill 14 and whatever 10 came up in that special session, can you recall any 11 other examples when the 21-vote rule was adjusted or 12 altered?</p> <p>13 A. I'm sorry. Would you repeat that question?</p> <p>14 Q. Sure. Other than Senate Bill 14 and this 15 special session you just mentioned, during your service 16 do you know of any particular bill or measure that was 17 decided without the 21-vote rule?</p> <p>18 A. I don't recall. There might have been one or 19 two, but I don't, I don't think so, but I don't recall.</p> <p>20 Q. You would agree that it's rare?</p> <p>21 A. Yes.</p> <p>22 Q. All right. I think I've got about eight 23 minutes. I promise to stay within it.</p> <p>24 Now, have you responded to any complaints 25 by constituents that concern photo ID or voter fraud?</p>

<p style="text-align: center;">209</p> <p>1 MR. SWEETEN: You can testify as to 2 whether or not you've responded to those. 3 A. I personal -- are you talking about in writing 4 or verbally or --</p> <p>5 Q. (By Mr. Dunn) Sure. Have you called a 6 constituent, sent an e-mail or sent a letter that spoke 7 about voter fraud or photo ID?</p> <p>8 A. Addressing a complaint?</p> <p>9 Q. Yes, sir.</p> <p>10 A. To the best of my knowledge, I have not 11 personally. Doesn't mean I didn't, but to the best of 12 my knowledge. And my staff may have because, you know, 13 we get -- we get people who contact us, and my staff 14 will directly deal, you know, handle that. So is it 15 possible my staff responded in some way reflecting my 16 position, simply saying the Senator supports this bill?</p> <p>17 That, I couldn't testify to. But I don't believe I have 18 personally -- could have happened, but I don't -- I 19 don't believe so.</p> <p>20 Q. Now, Senator, there's some issues that you have 21 to deal with constituent responses all the time about. 22 I'm sure you get contact maybe about ObamaCare, for 23 example.</p> <p>24 A. Sure.</p> <p>25 Q. You hear a great deal about them from your</p>	<p style="text-align: center;">211</p> <p>1 tend to be conservative Latino groups and conservative 2 African-Americans.</p> <p>3 But I also within the last six or eight 4 months, in the past, I've attended an all-Spanish- 5 speaking or primarily Spanish-speaking chamber of 6 commerce that I was invited to because I thought it was 7 important to go. And I met with -- and my wife and I 8 stayed the full evening. Had a great time. Made some 9 good contacts with people.</p> <p>10 And then I attended the Hispanic -- I 11 think it's called the Hispanic Chamber of Houston. They 12 have a legislative awareness or appreciative -- 13 legislative appreciation day. And it's primarily 14 Democrat legislators who attend, but I attended. And I 15 met the president, and I invited the president to come 16 and visit with me. And within the last six months, the 17 president of the chamber and another person, I forget, 18 came to my Senate office and met with me. And this is a 19 primarily Democrat-supported group. And we -- we had a 20 long discussion on how we could work together to -- for 21 the betterment of Texas for Latinos, Anglos, African- 22 Americans, so I really work hard at that, because I 23 think it's really important.</p> <p>24 Q. Have you carried any legislation at the request 25 of Latino or African-American communities?</p>
<p style="text-align: center;">210</p> <p>1 constituents. Is that true, there are a few issues that 2 you hear about and have to deal with all the time?</p> <p>3 A. Sure. I don't normally respond directly unless 4 it's a unique situation.</p> <p>5 Q. Uh-huh.</p> <p>6 A. Because there's just not time in the day.</p> <p>7 Q. I understand.</p> <p>8 A. But the staff will get those issues and 9 respond.</p> <p>10 Q. In the course of your campaigns, have you done 11 anything to target the minority community in your 12 district to get their support?</p> <p>13 A. Yes.</p> <p>14 Q. What are those things?</p> <p>15 A. There is a -- there's a gentleman named Bill 16 Calhoun, I may have that name wrong, but I think that's 17 the correct name. I just got to -- I just got a note 18 from him the other day, as a matter of fact, who 19 represents African-Americans, and so, you know, we have 20 met on a couple of occasions. Been supportive of his 21 organization for outreach. It's an outreach group for 22 African-Americans. I, early on, when I was first 23 elected, I sat down with a group of Hispanic leaders. A 24 gentleman named Reggie Gonzalez was a leader of an 25 outreach program for Latinos. And both of those were --</p>	<p style="text-align: center;">212</p> <p>1 A. To my knowledge, I've never been asked. And 2 maybe that will manifest itself in the next session 3 after kind of beginning these -- these conversations. 4 But I don't think I've ever been asked, and I don't 5 think I've ever done that.</p> <p>6 Q. In the campaigns that you have run and that 7 you've assisted other friends of yours in the running of 8 their campaigns, did you become aware that an outcome of 9 an election was questioned because of potential voter 10 fraud?</p> <p>11 A. That I've run?</p> <p>12 Q. Yeah.</p> <p>13 A. Not that I've run, and -- and I can't speak to 14 the others. Don't know.</p> <p>15 Q. Now, you -- you were asked a few questions 16 about Section 5 of the Voting Rights Act, and so I think 17 Section 5 means that certain government states, before 18 they can implement an election change, have to give 19 preclearance either from a court or Department of 20 Justice. Does sound about --</p> <p>21 A. Yes.</p> <p>22 Q. -- the way you understand it?</p> <p>23 A. Sounds about the way I understand it.</p> <p>24 Q. So I assume that you've handled and worked on a 25 number of election-related measures since you've been in</p>

<p style="text-align: center;">213</p> <p>1 the Senate?</p> <p>2 A. Some.</p> <p>3 Q. Okay. When you work on a -- whether it's</p> <p>4 voting on it or offering one, supporting one in</p> <p>5 committee, do you give consideration as to how it would</p> <p>6 get approved in the Section 5 process?</p> <p>7 MR. SWEETEN: Don't reveal your thoughts,</p> <p>8 mental impressions, motivations, opinions about</p> <p>9 legislation, or in furtherance of the legislative</p> <p>10 process. I think that calls for matters subject to</p> <p>11 legislative privilege.</p> <p>12 A. Yeah. I would assert legislative privilege on</p> <p>13 that question.</p> <p>14 Q. (By Mr. Dunn) Have you ever participated in</p> <p>15 communicating with the Department of Justice in</p> <p>16 furtherance of obtaining preclearance on a piece of</p> <p>17 legislation?</p> <p>18 MR. SWEETEN: You can answer the question.</p> <p>19 A. Yeah. I don't think we have. I haven't</p> <p>20 directly, to my -- except dealing with this issue here.</p> <p>21 Q. (By Mr. Dunn) Do you have a person on staff</p> <p>22 that you consider to be your point person for Section 5</p> <p>23 that sort of analyzes those issues for you?</p> <p>24 A. Not really.</p> <p>25 Q. Do you -- are you familiar with racial -- this</p>	<p style="text-align: center;">215</p> <p>1 positive for the entire community. I don't look at an</p> <p>2 issue to just benefit one group or another group. If</p> <p>3 it's a tax issue. If it's a transportation issue. My</p> <p>4 passion is education. Education impacts -- in fact, our</p> <p>5 public schools have a large segment of the minority</p> <p>6 population. So I might argue that a lot of what I</p> <p>7 actually focus my time on is I believe positively</p> <p>8 impacts minority community.</p> <p>9 MR. DUNN: All right. Senator, I thank</p> <p>10 you for the time. I thank the Department of Justice for</p> <p>11 letting me go out of order.</p> <p>12 THE WITNESS: All right. I will tell</p> <p>13 Logan hello.</p> <p>14 MR. DUNN: All right. I hope you do.</p> <p>15 FURTHER EXAMINATION</p> <p>16 BY MR. FISHER:</p> <p>17 Q. All right. So, Senator, turning back, I know</p> <p>18 we just touched on this. If you could clarify the</p> <p>19 21-vote rule. Could you just give me a quick definition</p> <p>20 of the 21-vote rule?</p> <p>21 A. Yeah. It's not a law. It's just a rule that</p> <p>22 the Senate -- senators, 31 senators vote on. And it has</p> <p>23 been a long-held tradition, that it takes 21-votes to</p> <p>24 bring a bill to the floor. It only requires 16 votes to</p> <p>25 pass. It takes a two-thirds majority to bring a bill to</p>
<p style="text-align: center;">214</p> <p>1 is my last area of inquiry. Are you familiar with</p> <p>2 racially polarized voting? Do you understand that term?</p> <p>3 A. No.</p> <p>4 Q. So without using that term, is it your belief</p> <p>5 and experience representing a Senate district in Texas</p> <p>6 that, in general, Anglos vote for Republicans, and in</p> <p>7 general, Latinos and African-Americans vote for</p> <p>8 Democrats?</p> <p>9 A. Excuse me. In general, I think the public data</p> <p>10 would show that a large percentage of African-Americans</p> <p>11 vote for Democrats. I don't know that it is as</p> <p>12 predominant from the Latino community. But again, the</p> <p>13 public data would indicate more Latinos vote Democrats</p> <p>14 than Republicans, but I don't think it's -- I'm not --</p> <p>15 it's not predominant.</p> <p>16 Q. Do you think there's something different about</p> <p>17 the minority population in your district in terms of how</p> <p>18 it performs for political parties compared to other</p> <p>19 parts of the state?</p> <p>20 A. I don't know that.</p> <p>21 Q. That's not something that you've worked on in</p> <p>22 teams of preparing your campaign and getting out your</p> <p>23 message for reelection?</p> <p>24 A. You know, I -- not specifically. The issues</p> <p>25 that I -- that I focus on are issues that are -- are</p>	<p style="text-align: center;">216</p> <p>1 the floor.</p> <p>2 Q. Have you also heard this is referred to as the</p> <p>3 two-thirds rule, the same --</p> <p>4 A. Yes.</p> <p>5 Q. -- essential thing you just described?</p> <p>6 A. Yes.</p> <p>7 Q. I'm going to hand you what's going to be marked</p> <p>8 as Exhibit 168.</p> <p>9 (Exhibit 168 marked for identification.)</p> <p>10 Q. (By Mr. Fisher) Exhibit 168 says "Senate</p> <p>11 Journal, 81st Legislature, Regular Session, Austin,</p> <p>12 Texas." And then we've got "Second Day, Wednesday</p> <p>13 January 14, 2009"; is that correct?</p> <p>14 A. Yes, sir.</p> <p>15 Q. If we could turn to what would be page, in the</p> <p>16 upper right-hand corner, designated as 23 of this</p> <p>17 exhibit, but it's page 3 of the actual excerpt.</p> <p>18 A. Yes.</p> <p>19 Q. If you would take a look at the middle there,</p> <p>20 you'll see "Special Orders Rule 5.11," and then we've</p> <p>21 got A, B, C and D. Do you see that, Senator?</p> <p>22 A. Yes.</p> <p>23 Q. And do you recognize this?</p> <p>24 A. It's 2009. Yes. I mean, I recognize it.</p> <p>25 Q. Okay. What is it?</p>

<p style="text-align: center;">217</p> <p>1 A. It's a resolution -- when you say what is it? 2 It's just a resolution. A little distracting with the 3 drummer out there. Forgive me for all of us, not just 4 me, I'm sure. A bill of resolution.</p> <p>5 Q. We are in Austin.</p> <p>6 A. Yeah, the Music Capital. (Witness reading.)</p> <p>7 Okay. I've read it. It's a special -- it's a special 8 order.</p> <p>9 Q. Would this rule have been in operation during 10 consideration of SB-362, which we've previously 11 discussed, which was brought to the floor in 2009?</p> <p>12 A. I can't exactly recall, but it may have. It 13 may well have been.</p> <p>14 Q. And so if you look at Section D, and I'll go 15 ahead and read that. "Notwithstanding Subsection A, a 16 bill or resolution relating to voter identification 17 requirements reported favorably from the Committee of 18 the Whole Senate may be set aside as a special order for 19 a time at least 24 hours after the motion is adopted by 20 a majority of the members of the Senate." And so can 21 you tell me how this provision operated?</p> <p>22 A. I have to think through this.</p> <p>23 Q. And if you need to, go ahead and reference 24 5.11A, which says "Any bill, resolution or other measure 25 made on any day be made a special order for a future</p>	<p style="text-align: center;">219</p> <p>1 do to the two-thirds Rule or the 21-vote rule, Section D 2 of Rule 5.11 that we're looking at here?</p> <p>3 A. And I would want to go back and make sure I'm 4 saying this correctly, because again, I don't have the 5 rule, Senate rule book in front of me, but I believe 6 what this does, this sets aside that 21-vote rule.</p> <p>7 Q. And it sets it aside specifically for a bill or 8 resolution relating to voter identification 9 requirements; is that correct?</p> <p>10 A. Correct.</p> <p>11 Q. And is it true that you pushed through this 12 rule's change along with Senator Williams in 2009?</p> <p>13 A. Senator Williams, I think, was the lead on it. 14 I don't recall my involvement in it or not. If you have 15 a record that would reflect that, I'm happy to look at 16 that.</p> <p>17 Q. We'll mark Exhibit 169. Exhibit 169 will be 18 Houston Chronicle article dated January 18, 2009. 19 (Exhibit 169 marked for identification.)</p> <p>20 Q. (By Mr. Fisher) And I'll direct your attention 21 to the end of the first paragraph here where it says 22 "Republican Senators led by Tommy," and we do a cut-off 23 here, and I apologize for that," of the Woodlands and 24 Dan Patrick of Houston pushed through rules to suspend a 25 normal two-thirds margin needed to bring legislation to</p>
<p style="text-align: center;">218</p> <p>1 time of the session by an affirmative vote of two-thirds 2 of the members present." Is that I guess what we would 3 term the proverbial two-thirds or 21-vote rule Section 4 A?</p> <p>5 A. I have to go back and kind of wrap my arms 6 around this. When we're in session for six months, you 7 know, I've got the rules down pat, backwards and 8 forwards. When I'm away for 12 months, I have to go 9 back and remember, revisit.</p> <p>10 Q. Well, Senator, let me ask you, is the 11 two-thirds rule and getting rid of the two-thirds rule, 12 has that been something that you have advocated for in 13 the past?</p> <p>14 A. I've advocated for reducing it from two-thirds 15 to 60 percent.</p> <p>16 Q. And that would be a three-fifths rule, 17 essentially, is that what you propose?</p> <p>18 A. It would take it from 21 to 19, true.</p> <p>19 Q. But Senator, has this been a priority for you 20 in the past, issues with regard to what we've termed the 21 two-thirds rule or 21-vote rule here today?</p> <p>22 MR. SWEETEN: You testified about matters 23 that you've publicly expressed.</p> <p>24 A. Publicly, yeah, it's a priority for me.</p> <p>25 Q. (By Mr. Fisher) So Section D, what does that</p>	<p style="text-align: center;">220</p> <p>1 the Senate Floor. The only issue to which the change 2 would apply is voter ID." And then if we move on, you'll 3 see more information about that. Does this seem like a 4 fair characterization of what happened here?</p> <p>5 A. You know, I don't know if it's a fair 6 characterization, because the media doesn't always get 7 it right. And I don't remember -- it didn't take two 8 people to push it through. It just took one, and Tommy 9 took the lead on it. But if there's something on the 10 record that I had a role in that, then that will, you 11 know, help me remember better. But I just -- I don't 12 have any problem with it. I'm just saying I don't 13 remember taking an active role in that.</p> <p>14 Q. Is pushing aside the two-thirds rule, as a 15 general matter, something that you support? And you 16 have testified previously that you're in favor --</p> <p>17 A. Yeah. I --</p> <p>18 Q. -- if there would be a 60 percent or three- 19 fifths rule?</p> <p>20 A. Yeah. Yeah. It is.</p> <p>21 Q. And in this case, you supported something a 22 little different than that in that it's not -- it's not 23 a change of the two-thirds rule. It's essentially a 24 carve-out from the two-thirds rule for voter 25 identification requirements; is that correct?</p>

<p style="text-align: center;">221</p> <p>1 A. Yes, sir.</p> <p>2 Q. And what was the purpose of specifying a carve-</p> <p>3 out for voter identification requirements of the</p> <p>4 two-thirds rule?</p> <p>5 MR. SWEETEN: Don't reveal your thoughts,</p> <p>6 mental impressions or opinions or motivation about</p> <p>7 legislation --</p> <p>8 A. Okay. Yeah. I would --</p> <p>9 MR. SWEETEN: -- in answering.</p> <p>10 A. I would assert legislative privilege.</p> <p>11 Q. (By Mr. Fisher) You'll assert legislative</p> <p>12 privilege over on the advice of your counsel over the</p> <p>13 purpose of Rule 5.11D on page 23 of the exhibit we just</p> <p>14 marked; is that correct?</p> <p>15 MR. SWEETEN: Let's be clear. The</p> <p>16 question was not what is the purpose of 5.11. The</p> <p>17 purpose was why as to that specific legislation. So if</p> <p>18 you want to ask him the general purpose of Senate</p> <p>19 Resolution 14 -- or actually, I'm sorry. Strike that.</p> <p>20 Rule 5.111, I'll let him answer as to the purpose of the</p> <p>21 bill.</p> <p>22 Q. (By Mr. Fisher) I'll rephrase. What was the</p> <p>23 purpose of Rule 5.11D, carving out voter identification</p> <p>24 requirements from the two-thirds or 21 rule that we've</p> <p>25 talked about?</p>	<p style="text-align: center;">223</p> <p>1 aside the 21-vote rule in special session, it does apply</p> <p>2 to specific legislation.</p> <p>3 Q. During a regular session, are you aware of any</p> <p>4 carve-outs similar to what we see in Rule 5.11D</p> <p>5 regarding voter identification requirements?</p> <p>6 A. I'm not -- could have happened, but I'm not</p> <p>7 aware.</p> <p>8 Q. And the two-thirds rule is a rule that you have</p> <p>9 written about or expressed an interest in; is that</p> <p>10 correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. And so you're someone who would be</p> <p>13 knowledgeable about the two-thirds rule and whether it's</p> <p>14 been set aside in the past; is that correct?</p> <p>15 A. Yes. Uh-huh.</p> <p>16 Q. And in fact, you are in favor of setting aside</p> <p>17 the two-thirds rule as you've testified here today; is</p> <p>18 that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Would we'll have Exhibit 170 --</p> <p>21 A. Well, let me rephrase that. I'm in favor of</p> <p>22 reducing it to 60 percent.</p> <p>23 (Exhibit 170 marked for identification.)</p> <p>24 Q. (By Mr. Fisher) Senator, I'm going to hand you</p> <p>25 Exhibit 170. And Exhibit 170 says "Senate Rules Adopted</p>
<p style="text-align: center;">222</p> <p>1 A. To set aside the 21-vote rule to take up voter</p> <p>2 ID.</p> <p>3 Q. So prior to 2009, when Rule 5.11 included this</p> <p>4 carve-out under Subsection D, had there ever been an</p> <p>5 area of legislation carved out from the two-thirds rule</p> <p>6 before, to your knowledge?</p> <p>7 A. To my knowledge, we -- and you're saying prior</p> <p>8 to 2009, so I --</p> <p>9 Q. Prior to 2009.</p> <p>10 A. I can't remember. I think we had a special</p> <p>11 session after -- I could be wrong, but it's been set</p> <p>12 aside for special session. Was it set aside? I was</p> <p>13 only there for one session before this, so I don't</p> <p>14 recall in '07 if we did it or not. We might have. I</p> <p>15 just don't remember.</p> <p>16 Q. And you've referenced this previously in your</p> <p>17 testimony about the two-thirds or 21-vote rule being</p> <p>18 abrogated for special sessions.</p> <p>19 A. Yeah.</p> <p>20 Q. Is that with regard to specific categories of</p> <p>21 the legislation?</p> <p>22 A. Yes, because of a special session, we can only</p> <p>23 take up what is on the emergency call. So we can't take</p> <p>24 up any legislation. So the Governor puts certain items</p> <p>25 on the emergency call. So, in essence, when you set</p>	<p style="text-align: center;">224</p> <p>1 by 82nd Legislature, January 19, 2011. Senate</p> <p>2 Resolution Number 36."</p> <p>3 And so if we turn to the second page of</p> <p>4 this document, which has 24 in the lower left-hand</p> <p>5 corner, again, you'll see Rule 5.11. You'll see A, B, C</p> <p>6 and D. Can you compare that to the other exhibit I gave</p> <p>7 you and tell me if those are the same.</p> <p>8 A. Which?</p> <p>9 Q. Previous exhibit which was Exhibit 168.</p> <p>10 A. Compare those two. And what do you want me to</p> <p>11 compare?</p> <p>12 Q. Rule 5.11 under the terms "Special Orders" in</p> <p>13 both exhibits, does that look the seam, A, B, C and D?</p> <p>14 Particularly Sections A and D.</p> <p>15 A. (Witness reading.) I'm just reading it. They</p> <p>16 look -- they do. Unless I'm missing something you see</p> <p>17 that I'm not, but they look similar.</p> <p>18 Q. No. I believe they are the same, Senator. Was</p> <p>19 the carve-out in Section D, was that reauthorized, to</p> <p>20 your knowledge, in 2011? Is that what we're seeing</p> <p>21 here, a reauthorization?</p> <p>22 A. I believe it was, but I would have to have the</p> <p>23 record reflect that.</p> <p>24 Q. Would SB-362 have passed the Senate if Rule</p> <p>25 5.11D had not been in place?</p>

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1 MR. SWEETEN: Objection. I think you're
 2 calling for his mental impressions, opinions,
 3 motivations --
 4 MR. FISHER: We can count the votes. This
 5 is a matter of math.
 6 A. Okay.
 7 Q. (By Mr. Fisher) Would SB-362 have passed the
 8 Senate if the two-thirds rule had not been suspended.
 9 Meaning, did you have more than two-thirds of the vote
 10 to pass SB-362?
 11 MR. SWEETEN: As phrased, I'm fine with
 12 the question, if you're asking about the votes that were
 13 cast on 362.
 14 A. You're also asking me to speculate because
 15 votes do change. Probable -- it probably would not have
 16 passed, because I don't know that votes would have
 17 changed, but -- but you can believe me, votes change.
 18 Q. Would a bill like SB-14 ordinarily be brought
 19 only to the floor with a vote of two-thirds of the
 20 Senate? Meaning, in the absence of Rule 5.11D that I
 21 just handed you, which is part of the Senate rules
 22 exhibit from 2011?
 23 MR. SWEETEN: You're asking about as the
 24 Senate as a general matter?
 25 MR. FISHER: As a general matter.

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1 MR. SWEETEN: As a procedural
 2 question. Yeah, you can answer.
 3 A. As a general matter, unless you have 21-votes
 4 on any bill, it does not come to the floor.
 5 Q. So the answer is "yes," Senator; is that
 6 correct?
 7 A. I think the answer to your question is "yes,"
 8 if the question is, would it -- was it a negative
 9 question, would it not have come to the floor?
 10 Q. No. Senator, would a bill like SB-214
 11 ordinarily be brought to the floor only with a vote of
 12 two-thirds of the Senate, in the absence of Rule 5.11D,
 13 which is the carve-out for a specific category of voter
 14 identification?
 15 A. Maybe it's late in the day. I'm getting
 16 tired. But you confused me, because I would think the
 17 answer would be "no," but you said the answer would be
 18 "yes." So maybe you better read that question to me
 19 again so I get it right.
 20 Q. Does it normally -- I'll rephrase.
 21 A. Okay. Sorry.
 22 Q. A bill like SB-14.
 23 A. Right.
 24 Q. We're talking about a regular session of the
 25 Senate so we're excluding special sessions.

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1 A. Okay.
 2 Q. Would it normally take a vote of two-thirds --
 3 A. Oh, okay.
 4 Q. -- of senators present to bring that to the
 5 floor?
 6 A. I understand.
 7 MR. SWEETEN: And you can answer as a
 8 general matter --
 9 A. Yes.
 10 MR. SWEETEN: -- about general Senate
 11 procedure.
 12 A. Yes. Okay. I understand.
 13 Q. (By Mr. Fisher) Okay. So your answer is
 14 "yes." So Rule 5.11D carved out based on the subject
 15 matter of the legislation SB-14 from that usual
 16 requirement; is that correct?
 17 A. Yes.
 18 Q. Why is the support, and I know you don't
 19 necessarily support the rule, but why is the support of
 20 two-thirds of senators required for most bills?
 21 MR. SWEETEN: Currently, now, as a matter
 22 of Senate procedure, you can answer.
 23 A. Why is it? Did you say why is it?
 24 Q. (By Mr. Fisher) Yes, Senator, why is the
 25 support of two-thirds of senators required for most

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1 bills?
 2 A. I actually think that was -- I assert
 3 legislative privilege asking me the "why," because --
 4 MR. SWEETEN: Yeah. I think if -- he's
 5 asking you about your mental impressions or opinions or
 6 motivations about legislation, or in particular, the why
 7 of the bill. I do think that that potentially
 8 implicates legislative privilege. So I think that's my
 9 instruction.
 10 A. Yeah. The way to rephrase it, but the way you
 11 ask it, I would assert it.
 12 Q. (By Mr. Fisher) So, Senator, are you asserting
 13 legislative privilege on the advice of your counsel in
 14 response to the last question that I asked?
 15 A. Yes.
 16 Q. As a general matter of procedure in the Texas
 17 State Senate, why is there a requirement that two-thirds
 18 of the senators present vote to bring a bill to the
 19 floor?
 20 A. I'll try to answer this without asserting
 21 legislative privilege. The why is because that's what
 22 the senators vote on. That's the rule.
 23 Q. Is there a history behind it, Senator? This is
 24 an issue that I know you care about.
 25 A. Yeah. Sure.

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1 Q. It's an issue that you have written about.
 2 A. Yes. There is a history. There is a history.
 3 Q. What's the history, Senator?
 4 A. The history, which I've spoken about on the
 5 record, on the Senate floor, I believe, is -- was when
 6 Texas was primarily a one-party state when it was all
 7 Democrats. And you just couldn't have any member
 8 bringing a bill to the floor who wanted to bring a bill
 9 to the floor. You had to have some kind of order.
 10 And so at some point in the past, I
 11 believe it was under Governor Shivers in 1951 where this
 12 really became an issue, I'm just remembering, been a
 13 couple of years since I've talked about this
 14 specifically. The Democrats started invoking the rule,
 15 because they had to have a way to bring a bill to the
 16 floor. That's the best of my memory.
 17 Of course, I wasn't there then. But
 18 history would indicate it was meant for really a
 19 one-party system as a way to funnel bills to the floor
 20 so you didn't have chaos of all the legislation.
 21 And then as, you know, 30 or 40 years
 22 later when we became more of a bipartisan state, you
 23 know, as late as the '90s, I think we only had three
 24 Republicans in the Senate, or in the late '80s. As
 25 Republicans grew, it really was -- it was an issue that

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1 become more bipartisan, meaning there's been more
 2 Republicans --
 3 A. Yeah. There are more Republicans. And if you
 4 look at -- and if you look at all of the votes that are
 5 cast on the Senate floor, the vast majority have passed
 6 with 28, 29 votes, and there's bipartisanship, both
 7 parties, on many bills.
 8 Q. Was that the case with SB-14?
 9 A. Was not the case with SB-14.
 10 Q. So what was the purpose of adopting Rule 5.11D
 11 in 2011?
 12 MR. SWEETEN: He's asked and answered that
 13 question. Objection, asked and answered.
 14 Q. (By Mr. Fisher) You can still answer, Senator.
 15 A. Purpose was to pass a bill that would ensure
 16 the integrity of the ballot box.
 17 Q. So Rule 5.11D, based upon your testimony, was
 18 in place to ensure the passage of SB-14; is that
 19 correct?
 20 MR. SWEETEN: Objection, asked and
 21 answered. You can answer again.
 22 A. Yeah. The purpose of the exception to 5.11 was
 23 to pass a bill that would ensure the integrity of the
 24 ballot box.
 25 Q. And the bill would not have passed without

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1 the Democrats controlled always. And then as
 2 Republicans grew, it became -- it did become an issue of
 3 kind of a bipartisan issue over the last several years.
 4 And so that's kind of the history of it.
 5 And I -- I don't believe it works for a -- for a -- I
 6 believe it worked well maybe for the Democrats for a
 7 one-party system, but it's difficult for two parties to
 8 -- because two-thirds is a very high threshold.
 9 Q. Is it fair that it requires a general consensus
 10 on legislation so you've mentioned one party, but now
 11 that the legislature is more evenly split, does it
 12 require some kind of consensus on legislation before
 13 it's brought to the floor?
 14 A. It does require consensus, but two-thirds is a
 15 very high threshold consensus. And our founding fathers
 16 spoke about that as well.
 17 Q. And what did you mean, you mentioned a minute
 18 ago, "bipartisan issue," and so what did you mean when
 19 describing it as a bipartisan issue? Do you mean it
 20 affects both parties? Is that what you mean?
 21 A. I'm not sure how I -- how I said that. How did
 22 I say that? I don't want to make you go back there.
 23 I'm not sure how I said that.
 24 Q. Did you -- do you mean that as -- you were
 25 describing how the Texas legislature of the Senate has

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1 5.11D, I mean, that's the logical consequence of your
 2 answer, correct?
 3 MR. SWEETEN: Objection, calls for
 4 speculation. Go ahead.
 5 A. Yeah. Yeah. I -- you know, as I said, it is
 6 speculation. I think it is fair to say that you're
 7 correct, it may not have passed. Doesn't mean it
 8 wouldn't have passed, but you're -- I think that's a
 9 fair --
 10 Q. Can you think of any other consensus
 11 legislation in a similarly situated legislation that has
 12 received the same kind of carve-out as we see in Rule
 13 5.11D in Texas?
 14 MR. SWEETEN: Objection, asked and
 15 answered.
 16 Q. (By Mr. Fisher) You can still answer, Senator.
 17 A. Yeah. I think I've -- I think I've answered
 18 that question.
 19 Q. Is the answer "no"? Is that what your
 20 testimony has been?
 21 A. I think my testimony has been in special
 22 session, we do it, and those bills in special session
 23 are --
 24 Q. We're not talking about a special session.
 25 MR. SWEETEN: No, no, no. Let him finish

<p style="text-align: center;">233</p> <p>1 his answer. He can finish his answer. 2 A. Again, the special session, those rules are 3 important, too, so it has that.</p> <p>4 Q. In regular session, Senator, are you aware of 5 any other bills that have been given the same treatment 6 as SB-14 and Rule 5.D11D?</p> <p>7 MR. SWEETEN: Same objection. Asked and 8 answered multiple times.</p> <p>9 A. Yeah. Yeah. I've answered it.</p> <p>10 Q. (By Mr. Fisher) And your answer is "no"; is 11 that correct, Senator?</p> <p>12 A. I said I didn't -- I think my answer was I 13 don't recall any specific. Might have been. I don't 14 recall.</p> <p>15 Q. Did you have any communications with anyone 16 about the suspension of the two-thirds rule in 5.11D?</p> <p>17 MR. SWEETEN: You can reveal whether or 18 not you had a conversation. Do not reveal the substance 19 of the conversation.</p> <p>20 A. Sure. Yeah. Yes, I had a conversation.</p> <p>21 Q. And who were those conversations with?</p> <p>22 A. Would have been with senators from both 23 parties.</p> <p>24 Q. And when did those conversations occur?</p> <p>25 A. I couldn't tell you exactly, but it would have</p>	<p style="text-align: center;">235</p> <p>1 newsletter?</p> <p>2 A. I have -- I don't write this as much, but I 3 do -- I do look at it before it's sent out.</p> <p>4 Q. And what's the purpose of this document, 5 "Capital View, 82nd Legislative Session"?</p> <p>6 A. To disseminate information to the district on 7 what's going on.</p> <p>8 Q. And is this sent out to all of your 9 constituents; is that correct?</p> <p>10 A. No, this is different. What we had before was 11 a newsletter that is distributed to all registered 12 voters that the state actually pays for the postage. 13 We're allowed to do that once a year. This is a 14 campaign e-blast. It's not an actual -- the other is an 15 actual letter. This is a campaign e-blast that we send 16 out to whoever sends us their e-mail. So if we have 17 their e-mail, we send it out.</p> <p>18 Q. Okay. Thank you, Senator, for explaining the 19 difference. If you look at -- and this is entitled 20 "2/3rds Rule Change."</p> <p>21 A. Yes.</p> <p>22 Q. "2/3rds Rule Challenge" -- I'm sorry -- "Gains 23 Ground Once More."</p> <p>24 A. Right.</p> <p>25 Q. You look about halfway down. "Four years ago</p>
<p style="text-align: center;">234</p> <p>1 been prior to this -- to this special order, because it 2 was a topic of discussion.</p> <p>3 Q. Do you remember the other senators involved 4 that you had discussions with?</p> <p>5 A. I can't tell you specifically. I -- I don't 6 know if I talked to Senator Williams about it or 7 not. Probably did. Beyond that, I really can't 8 speak. Everyone was talking about it so I think pretty 9 much.</p> <p>10 Q. Okay. Senator, I'm going to hand you what's 11 been marked as Exhibit 171.</p> <p>12 (Exhibit 171 marked for identification.)</p> <p>13 A. Okay.</p> <p>14 Q. (By Mr. Fisher) And this is titled "Capitol 15 View, 82nd Legislative Session, Senator Dan Patrick, 16 Your Voice From Senate District 7, January 26, 2011."</p> <p>17 A. All right.</p> <p>18 Q. And if you remember, we had a discussion 19 earlier, and I asked you a series of questions about a 20 newsletter, and so those were whether you recognized the 21 document, the purpose of the document was created for.</p> <p>22 A. Right.</p> <p>23 Q. Would any of your answers change with regard to 24 this as opposed to a newsletter? Do you have more or 25 less involvement in the creation of this advice than the</p>	<p style="text-align: center;">236</p> <p>1 stood alone," and this is I'm assuming you?</p> <p>2 A. Yeah.</p> <p>3 Q. "This year, Senator John Carona stood with me 4 on the Senate floor in opposition to the two-thirds 5 rule. Several other senators also placed objections in 6 the Senate Journal. We did set aside the two-thirds 7 rule on voter ID. That's a big victory, but I want 8 total change." Do you see that there?</p> <p>9 A. Yes.</p> <p>10 Q. And did you review that before it was sent out 11 to your constituents?</p> <p>12 A. I don't remember specifically if I did, but I 13 feel sure I did.</p> <p>14 Q. And what did you mean to convey by this 15 statement?</p> <p>16 A. Just to let the people who received this 17 e-blast know what had happened concerning the two-thirds 18 rule in general and specifically on voter ID.</p> <p>19 Q. And so why do you oppose the two-thirds rule if 20 you -- that's asked and answered. Fair enough.</p> <p>21 In your statement, you note that you stood 22 alone in opposition to the two-thirds rule; is that 23 correct?</p> <p>24 A. Correct.</p> <p>25 Q. So then does that mean as a logical consequence</p>

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1 that other senators disagree with you on this point?
 2 MR. SWEETEN: Don't reveal specific
 3 communications that you had with senators.
 4 A. Well, standing alone -- standing alone would
 5 indicate that, at that time in 2007, I was alone.
 6 Q. (By Mr. Fisher) And obviously, since the
 7 Senate actually has a majority of Republicans, many
 8 Republicans do not support your view of the two-thirds
 9 rule as well; is that correct?
 10 MR. SWEETEN: Are you asking now? And
 11 also, don't reveal communications you've had.
 12 Q. (By Mr. Fisher) We can ask as far as 2007 and
 13 then now, if there's been any change. But in 2007,
 14 since you do say you stood alone, there must have been
 15 other folks from your party that didn't agree with your
 16 position in the two-thirds rule; is that correct?
 17 MR. SWEETEN: You can answer the question
 18 based upon matters of the public record. Don't reveal
 19 specific communications you had with senators or Senate
 20 staff.
 21 A. I'm trying to think how to answer this
 22 accurately and not -- I'm not alone any more in my view.
 23 Q. (By Mr. Fisher) Okay. But in 2007, you said
 24 you stood alone, and this was something that you
 25 proposed. You've described your reasons for opposing

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1 Whole. So --
 2 Q. Have you brought up such a change to the
 3 Committee of the Whole?
 4 A. Yes, I have.
 5 Q. And what happened when you brought that up?
 6 A. It was --
 7 MR. SWEETEN: You can testify about
 8 matters of public record.
 9 A. Well, this Committee of the Whole, not a public
 10 record.
 11 MR. SWEETEN: Okay.
 12 A. It's private caucus.
 13 MR. SWEETEN: Okay, well --
 14 A. It's a caucus --
 15 MR. SWEETEN: You can testify about
 16 matters of public record, public statements, and, but
 17 don't reveal matters that are subject to privilege,
 18 which would include communications with senators.
 19 A. I have to assert -- in the definition of how
 20 that's, you know, since it's not public record, I'd have
 21 to assert.
 22 Q. (By Mr. Fisher) Are you asserting legislative
 23 privilege on the advice of your counsel, Senator?
 24 A. Yes.
 25 Q. I'm going to hand you what will be marked as

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1 the two-thirds rule, which I almost asked you about
 2 again, but I realized you've answered that question.
 3 A. Right.
 4 Q. So my question is, since you did stand alone,
 5 there were obviously many other senators that disagreed
 6 with you; is that a fair characterization?
 7 A. There -- yeah, not all senators disagreed.
 8 Just because you don't stand up and speak out doesn't
 9 mean you don't agree. Sometimes you are alone. But it
 10 would be fair to say in 2007, the majority did not
 11 agree, did not agree with me.
 12 Q. And in 2009, we see that many senators joined
 13 with you in setting aside the two-thirds rule with
 14 regard to SB-362; is that correct?
 15 A. Correct.
 16 Q. And in 2011, we see that many senators joined
 17 with you in setting aside the two-thirds rule with
 18 regard to SB-14; is that correct?
 19 A. Correct.
 20 Q. Have you ever brought up making a change to the
 21 two-thirds rule? And I know you support it. Have you
 22 brought up legislation to make a change to the
 23 two-thirds rule as a hole?
 24 A. It wouldn't actually be legislation, because
 25 it's just a rule that we vote on as a Committee of the

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1 Exhibit 172, and this is an article from the San Antonio
 2 Express News dated January 20th, 2011.
 3 (Exhibit 172 marked for identification.)
 4 Q. (By Mr. Fisher) Is that a correct
 5 characterization of this article, Senator?
 6 A. Yes.
 7 Q. And if you read what is the second paragraph
 8 and the third paragraph, we see "The Senate voted 18-11,
 9 largely along party lines, to keep in place the rules
 10 that required a two-thirds super majority vote for a
 11 bill to reach the floor for debate. State Senator Dan
 12 Patrick, Republican from Houston, tried as he has in
 13 previous sessions to dump the longstanding Senate
 14 tradition saying the two-thirds rule requiring approval
 15 from at least 21 of the 31 senators gives the minority
 16 party excessive power of the majority"; is that correct?
 17 A. Yes.
 18 Q. And so you've acknowledged that you don't have
 19 the votes to make a broad-sweeping change to the
 20 two-thirds rule; is that correct?
 21 A. Correct.
 22 Q. But other senators did join with you in 2009 to
 23 make a change to the two-thirds rule with regard to
 24 SB-362; is that correct?
 25 A. They joined with Senator Williams and myself,

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1 yes.
 2 Q. And senators joined with you to make a change
 3 to the two-thirds rule with regard to SB-14 in 2011; is
 4 that correct?
 5 A. And Senator Williams, correct.
 6 Q. Yet some of these same senators, it would seem,
 7 by a logical conclusion have not joined with you to make
 8 a broad change to the two-thirds rule with regard to
 9 legislation, all legislation being brought before the
 10 Texas State Senate; is that correct?
 11 A. I believe that's correct.
 12 (Recess from 5:50 to 6:02 p.m.)
 13 Q. (By Mr. Fisher) All right. So if we could
 14 return back to the record.
 15 Senator, you mentioned -- you did mention
 16 the founding fathers and you mentioned with regard to
 17 wanting to make a move to a three-fifths rule instead of
 18 two-thirds rule, and I just wanted to get your thinking
 19 on that issue.
 20 Why a three-fifths rule instead of a
 21 two-thirds rule?
 22 MR. SWEETEN: You can reveal matters of
 23 the public record, public speeches you have given on the
 24 issue.
 25 A. Yeah. The public speech I gave on the Floor,

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1 paraphrasing, was that the founding fathers considered,
 2 when writing the Constitution, should Congress be a
 3 simple majority or a two-thirds. And Madison and
 4 Washington and others suggested that it should be a
 5 simple majority, for a variety of reasons. And so
 6 Congress does -- you know, people forget about it, but
 7 Congress passes bills on a simple majority. In the
 8 Senate, they pass bills on a simple majority, which have
 9 the 60 vote, which is 60 percent cloture vote. So, in
 10 the Senate, in the Texas Senate, I thought 19 of 31,
 11 which is close to 60 percent -- you can round it off
 12 higher or lower -- would mirror the U.S. Senate vote.
 13 That's the number I pegged.
 14 And I've been very clear, in that
 15 discussion on the Floor, that it's regardless of
 16 Democrats or Republicans have the majority of members.
 17 Q. And how many members are Republicans in the
 18 Senate at this point in time?
 19 A. It's 19-11. 19 Republicans.
 20 Q. Okay. And so you would, at this point, that
 21 would constitute enough senators that are Republicans so
 22 that legislation could be brought to the Floor by
 23 Republicans only; is that correct?
 24 A. Right. It's just a happenstance of numbers
 25 today, because that will change over time.

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1 Q. But as we mentioned, I mean, at this point in
 2 time, you don't have the support to make such a change;
 3 is that right?
 4 MR. SWEETEN: Objection. Don't reveal
 5 communications you've had with legislators or staff
 6 members.
 7 A. Yeah.
 8 Q. (By Mr. Fisher) So if we could return back to
 9 the previous exhibit, but we have talked about, you
 10 know, your statements that at this time, you don't have
 11 the support to make a change to the two-thirds rule; is
 12 that correct?
 13 A. I think the public record would reflect that.
 14 Q. So if I could get you to return to a previous
 15 exhibit, and this was the Senate Journal, 81st
 16 Legislature, Regular Session, 2009.
 17 A. Okay.
 18 Q. And the exhibit number --
 19 A. 168? Is that it?
 20 MR. SWEETEN: I think it's 47. Is it this
 21 it, 47?
 22 MR. FISHER: 2009.
 23 A. Yes. January 14th, 2009.
 24 Q. (By Mr. Fisher) Correct.
 25 MR. SWEETEN: You guys are ahead of me.

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1 Hold on now.
 2 Q. (By Mr. Fisher) So in previously referencing
 3 this document, we talked about Page 23, and we talked
 4 about Rule 5.11 A, B, C, and D?
 5 A. Yes.
 6 Q. Were there amendments offered -- at the time
 7 that this language was placed in the Senate Journal,
 8 were there amendments offered contemporaneously?
 9 A. I don't remember.
 10 Q. Okay. Well, if we turn to Floor Amendment
 11 Number 1, which is on Page 25 of the document in upper
 12 right-hand corner.
 13 A. Okay.
 14 Q. And take a look at that Floor Amendment
 15 Number 1 for me, please.
 16 A. Yes, I see.
 17 Q. And does that look like an amendment to the
 18 language that was on Page 23, Rule 5.11 A, B, C, and
 19 D? Does that look like an amendment to that language?
 20 A. Yes.
 21 Q. Okay. And did Senator Ellis introduce this
 22 amendment?
 23 A. Yes.
 24 Q. And how does it look like this amendment would
 25 have worked, based on the language in 1 and 2 under

<p style="text-align: center;">245</p> <p>1 "Amend SR 14 as followed"?</p> <p>2 A. It would have taken voter identification</p> <p>3 requirements out, and in its place put "Protecting</p> <p>4 families through insurance rate regulation and</p> <p>5 foreclosure prevention."</p> <p>6 Q. And what was your vote on this amendment?</p> <p>7 A. It was a vote to table, and I voted to table.</p> <p>8 Q. And we've established earlier that you do not</p> <p>9 support the two-thirds rule. We've just discussed you</p> <p>10 support a three-fifths rule that's more in line with the</p> <p>11 operation of the U.S. Senate; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. Yet you voted to table this amendment, which</p> <p>14 would have expanded the universe of legislation that was</p> <p>15 not subject to the two-thirds rule; is that correct?</p> <p>16 A. It would not -- that's not correct. This is --</p> <p>17 if you read this closely, this would not have expanded.</p> <p>18 This would have replaced voter ID.</p> <p>19 Q. Well, Senator, it would have replaced the</p> <p>20 language of voter ID identification requirements, but</p> <p>21 that aside, it would have expanded the amount of</p> <p>22 legislation not subject to the two-thirds rule, correct?</p> <p>23 It might be a different subject matter, but would it</p> <p>24 have expanded the type of legislation not subject to the</p> <p>25 two-thirds rule?</p>	<p style="text-align: center;">247</p> <p>1 We're increasing veterans' benefits."</p> <p>2 And then we have Number 2 on Page 2,</p> <p>3 "Amend Modification 2 after voter identification</p> <p>4 requirements by inserting the following: We're</p> <p>5 increasing veterans' benefits."</p> <p>6 Now, Senator, I know you've done a lot of</p> <p>7 work in the area of supporting veterans; is that</p> <p>8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Would this have expanded the sphere of</p> <p>11 legislation not subject to the two-thirds rule to</p> <p>12 include legislation regarding increasing veterans'</p> <p>13 benefits?</p> <p>14 MR. SWEETEN: You can answer based on the</p> <p>15 text of the document.</p> <p>16 A. Yes.</p> <p>17 Q. (By Mr. Fisher) And unlike the previous</p> <p>18 amendment where you said that you had some concerns that</p> <p>19 it would not have expanded the amount of legislation not</p> <p>20 subject to the two-thirds rule, would this have expanded</p> <p>21 the amount of legislation not subject to the two-thirds</p> <p>22 rule?</p> <p>23 A. Yes.</p> <p>24 Q. And is that because it has the word "or" in it?</p> <p>25 A. Yes.</p>
<p style="text-align: center;">246</p> <p>1 MR. SWEETEN: You can answer based on the</p> <p>2 text.</p> <p>3 A. Yeah. Based on the text, I just -- I just read</p> <p>4 it differently. Expanding it would have been -- in</p> <p>5 Senator Ellis's amendment, it would have been adding</p> <p>6 another bill.</p> <p>7 Q. (By Mr. Fisher) Okay. Well, let's move to</p> <p>8 Floor Amendment Number 2. Can you look at that</p> <p>9 amendment for me?</p> <p>10 A. Sure. Okay.</p> <p>11 Q. And that was offered by Senator Uresti; is that</p> <p>12 correct?</p> <p>13 A. Yes. Yes.</p> <p>14 Q. And can you read -- can you read the language</p> <p>15 after Number 1?</p> <p>16 A. Do you want me to read after Number 1 or</p> <p>17 Number 2? You were talking about Uresti. Did you mean</p> <p>18 Number 2?</p> <p>19 Q. It's Floor Amendment Number 2, and then we have</p> <p>20 a Number 1 --</p> <p>21 A. Oh, Number 1, I see.</p> <p>22 Q. -- on Page 2.</p> <p>23 A. Got you.</p> <p>24 Q. "Amend Modification 1 after voter</p> <p>25 identification requirements by inserting the following:</p>	<p style="text-align: center;">248</p> <p>1 Q. And how did you vote on this amendment,</p> <p>2 Senator?</p> <p>3 A. I voted to table.</p> <p>4 Q. So your testimony is that you voted to table an</p> <p>5 amendment that would have increased the amount of</p> <p>6 legislation not subject to the two-thirds rule; is that</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And it would have allowed for the consideration</p> <p>10 of bills addressing veterans' benefits to not be subject</p> <p>11 to the two-thirds rule; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Is voter ID legislation more or less important,</p> <p>14 in your view, than increasing veterans' benefits?</p> <p>15 MR. SWEETEN: Don't answer the question to</p> <p>16 the extent it asks you to reveal your thoughts and</p> <p>17 mental impressions about legislation or communications.</p> <p>18 A. Yeah. I assert legislative --</p> <p>19 MR. SWEETEN: -- privilege.</p> <p>20 A. -- privilege -- it's been a long day -- on the</p> <p>21 advice of counsel.</p> <p>22 Q. (By Mr. Fisher) Are you asserting legislative</p> <p>23 privilege on the advice of your counsel?</p> <p>24 A. Yes, I am.</p> <p>25 Q. Do you think increasing veterans' benefits is</p>

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1 an important goal of legislation?

2 MR. SWEETEN: The same objection. It
3 calls for matters subject to the legislative privilege.

4 A. I assert legislative privilege on the advice of
5 counsel.

6 Q. (By Mr. Fisher) Have you done work in support
7 of veterans and veterans' groups in your capacity as a
8 Texas State Senator?

9 A. Yes.

10 MR. SWEETEN: Yeah. You can answer that
11 to the extent you're not revealing legislation or
12 matters related to your opinions or thoughts on
13 legislation. To the extent that your question is not
14 calling for matters subject to legislative privilege, he
15 can answer the question. I think he did, so...

16 Q. (By Mr. Fisher) Senator, what kind of work have
17 you done on behalf of veterans?

18 MR. SWEETEN: Same instruction.

19 A. I passed a bill this past session that became a
20 constitutional amendment that would allow the wives of
21 deceased veterans or 100 percent disabled, to maintain
22 their property tax exemption, the property tax exemption
23 they have when they were alive.

24 I have passed a bill last session, I
25 believe it was last session, that would allow a veteran

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1 based upon legislative privilege.

2 A. I assert legislative privilege on advice of
3 counsel.

4 Q. (BY MR. FISHER) Are you aware that there were
5 other senators that were upset by the procedural change
6 prior to SB 14 being passed? And by procedural change,
7 I mean what we've looked at in Rule 5.11D.

8 MR. SWEETEN: Don't reveal matters subject
9 to the legislative privilege, including communications
10 with senators or senators' staffs. But to the extent
11 you can refer to matters of the public record, you can
12 do so.

13 A. Yeah. I think there was public record where
14 certain members were not happy.

15 Q. (By Mr. Fisher) And I'll hand you what's been
16 previously marked as Exhibit 45, and it's a declaration
17 of Carlos Uresti. And who is Carlos Uresti, Senator?

18 A. He's a State Senator.

19 Q. Okay. So it's a four-page document entitled
20 Declaration of Carlos Uresti. And on the last page,
21 you'll see it's dated April 9, 2012. And if you could
22 turn Page 10 on the second page, and then Page 11 on the
23 third page, and go ahead and read those paragraphs for
24 me.

25 A. Okay. Where do you want me to begin?

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1 to fly a American, Texas, or military flag in their
2 backyard, and that homeowners' associations could not
3 restrict their right to do so.

4 I have co-sponsored or co-authored,
5 depending on where the bill originated, a series of
6 bills dealing with veterans on other issues.

7 Q. Well, thank you for your testimony on that,
8 Senator, and let me just say, as a member of the
9 military, I do appreciate that work.

10 A. Thank you for your service.

11 Q. But I have to ask you here and just based upon
12 your testimony, when given the opportunity to vote for
13 something as a non -- as someone who doesn't support the
14 two-thirds rule as a general matter --

15 A. Right.

16 Q. -- and when asked to vote for a bill, an
17 amendment that would allow for the consideration of
18 bills which increased veterans' benefits to not be bound
19 by the two-thirds rule and you voted to table that
20 amendment, I have to ask for the purpose of your vote in
21 that situation.

22 MR. SWEETEN: I'm going to object. You're
23 asking for matters subject to the legislative privilege,
24 his thoughts, opinions about legislation, specific
25 legislative, and I would instruct you not to answer

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1 Q. Number 10, which is on the second page, and
2 Number 11 -- move on to Number 11 on the third page, and
3 just read those two paragraphs.

4 A. "In 2011, the Senate majority exempted SB 14
5 outright from requiring support of two-thirds of the
6 Senate. In other words, the requirement that at least
7 21 senators agree on SB 14 before it could be called up
8 for debate on the Senate Floor was waived. Requiring
9 --" Number 11. "Requiring two-thirds of the Senate to
10 support a bill is basic, foundational rule of the
11 senate, which was highly unusual to waive, especially
12 when the waiver was only applied to one bill. Of the
13 thousands of bills awaiting debate on the Senate Floor,
14 the two-thirds rule was only waived for SB 14 and was
15 applied to all other pending Senate bills."

16 Q. Do you have a different view than Senator
17 Uresti concerning whether this was highly unusual
18 activity?

19 MR. SWEETEN: Caution the witness, don't
20 reveal matters subject to the legislative privilege,
21 including your mental impressions, thoughts or
22 discussions with other senators, but to the extent you
23 can answer this question without doing so, you can, or
24 based upon matters of the public record.

25 A. Just -- I'm thinking of your question

<p style="text-align: center;">253</p> <p>1 here. You asked me do I have a different -- I believe 2 -- I believe what he has written is -- is -- it's 3 opinionated, but -- but it's factual.</p> <p>4 Q. (By Mr. Fisher) Okay. So it was highly unusual 5 for SB 14 to be considered without two-thirds vote of 6 the Senate before being considered on the Senate Floor?</p> <p>7 A. Well, you know, I'm going to correct the 8 record, because it's really more of opinion, and I don't 9 want to speculate on opinion. So I would assert my 10 legislative privilege on this, because you're asking me 11 to give an opinion, and I'm not going to get involved in 12 that.</p> <p>13 MR. SWEETEN: And his mental -- yeah.</p> <p>14 Q. (By Mr. Fisher) Do you agree that the 15 two-thirds rule is a basic foundational rule of the 16 Senate?</p> <p>17 MR. SWEETEN: Don't get into your thoughts 18 or opinions about legislative --</p> <p>19 A. Yeah. I have to waive -- I have to waive --</p> <p>20 MR. SWEETEN: You can discuss matters of 21 public record, speeches on issues.</p> <p>22 A. On public record, I think we've gone over this 23 a lot. I don't see it as a foundational...</p> <p>24 Q. (By Mr. Fisher) It is fair to say that this 25 wasn't the usual procedure, correct?</p>	<p style="text-align: center;">255</p> <p>1 A. A bill that has an emergency designation 2 indicates that the Governor considers it a priority.</p> <p>3 Q. And how did SB 14 come to receive emergency 4 designation?</p> <p>5 MR. SWEETEN: Objection, calls for 6 speculation. You can testify as to matters of public 7 record.</p> <p>8 A. Yeah. You know, I assert senatorial privilege 9 on that, on the advice of counsel.</p> <p>10 Q. (By Mr. Fisher) If we could turn back to --</p> <p>11 MR. SWEETEN: Let me, for the record, 12 objection, legislative privilege.</p> <p>13 Q. (By Mr. Fisher) Let's turn back to Exhibit 14 Capitol View, 82nd Legislation Session, and that was 15 your document that went out to constituents.</p> <p>16 A. Okay. All right. 170-something, I believe 17 this is it.</p> <p>18 Q. And that's 171? Exhibit 171?</p> <p>19 A. Right.</p> <p>20 Q. And if you notice, on the last page of the 21 first -- I'm sorry -- the last line of the first page 22 and leading over into the second page, we have, "An 23 emergency bill is simply a bill that be acted upon 24 within the first 60 days of the session. Bills are not 25 normally allowed to be voted on the Floor until the end</p>
<p style="text-align: center;">254</p> <p>1 A. It is fair to say that.</p> <p>2 Q. Was SB 362 considered by any Senate committees?</p> <p>3 A. I don't -- you know, I just don't recall SB 62, 4 if it was or if it was not.</p> <p>5 Q. Was SB 14 considered by any Senate committees?</p> <p>6 A. By the Committee of the Whole.</p> <p>7 Q. And is the unusual for a bill to be considered 8 only by the Committee of the Whole and not by another 9 committee. As you mentioned, you know, way back in the 10 beginning of your testimony, all the committees you 11 serve on.</p> <p>12 A. Yeah.</p> <p>13 Q. Is it unusual for a bill to not be considered 14 by one of those committees before being considered by 15 the Committee of the Whole?</p> <p>16 A. That would be accurate.</p> <p>17 Q. Do you recall any other bill being filed in the 18 Committee of the Whole without going to a separate 19 committee first?</p> <p>20 A. I can't recall one. There may have been one, 21 but I don't recall one. I think there may have been a 22 circumstance, but I can't -- it doesn't come to mind 23 right now, outside of the special session.</p> <p>24 Q. What does it mean for a bill have an emergency 25 designation?</p>	<p style="text-align: center;">256</p> <p>1 of filing." And you're referencing here, it's under the 2 subheading of Sonogram Senate Bill 16, which you 3 referenced earlier is a bill that you supported. So how 4 did you go about getting emergency designation for the 5 sonogram bill?</p> <p>6 MR. SWEETEN: Don't reveal matters subject 7 to legislative privilege, including communications or 8 your thought process or mental impressions regarding 9 legislation in answering the question. You can discuss 10 matters of the public record.</p> <p>11 A. Yeah. I would assert legislative privilege on 12 that.</p> <p>13 Q. (By Mr. Fisher) Can you tell me how emergency 14 bills are attained?</p> <p>15 MR. SWEETEN: If that's a matter of public 16 record, you can answer that question.</p> <p>17 A. Yeah. I don't think that that's a matter of 18 public record.</p> <p>19 Q. (By Mr. Fisher) Well, Senator, we've got a 20 newsletter here of -- you know, with -- I guess a little 21 different than a newsletter, but a communication to your 22 constituents, essentially trumpeting your success in 23 getting emergency designation for a bill that you 24 supported. And so my question is: How did you get to 25 receive that emergency designation? You have informed</p>

<p style="text-align: center;">257</p> <p>1 your constituents that you got it for this bill, 2 correct?</p> <p>3 MR. SWEETEN: Okay. But what you're 4 asking him is to reveal conversations he may have had, 5 his thoughts, mental impressions about legislation. To 6 the extent that he would have to do that, that is a 7 matter subject to the legislative privilege. To the 8 extent you don't have to reveal those, you can answer 9 the question.</p> <p>10 A. Yeah. I would have -- you know, the -- I think 11 the fact is, I was able to get emergency legislation. 12 But beyond that -- or designation. Beyond that would be 13 an area where I think I would have to assert legislative 14 privilege.</p> <p>15 Q. (By Mr. Fisher) Did you have communications 16 with the Governor's Office about this?</p> <p>17 MR. SWEETEN: You're -- I want to make 18 sure I'm clear on the question, because I'm going to let 19 him allow -- I'm going to allow him to discuss 20 communications and whether communications occurred. But 21 are you asking in the context of the sonogram bill?</p> <p>22 Q. (By Mr. Fisher) In the context of the sonogram 23 bill, did you have communications with the Governor's 24 Office concerning the emergency designation?</p> <p>25 MR. SWEETEN: You can answer whether you</p>	<p style="text-align: center;">259</p> <p>1 historical records. I don't have those front of me. 2 But it seems to me that every session, or nearly every 3 session, there are bills that are designated as 4 emergency legislation. It's not an uncommon occurrence 5 to begin a session with an emergency legislation.</p> <p>6 Q. Is it unusual for the Senate to pass 7 legislation in the first two weeks of a session?</p> <p>8 A. It is unusual in the context of the total 9 bills, but it's not unusual in the context of emergency bills.</p> <p>10 Q. And were you pleased with the fact that your sonogram bill was designated as emergency legislation?</p> <p>11 MR. SWEETEN: Don't reveal your mental impressions, thoughts about legislation in answering the question.</p> <p>12 A. Yeah. I would assert legislative privilege.</p> <p>13 Q. (By Mr. Fisher) But you did want to inform your constituents about that fact, correct?</p> <p>14 A. Yes.</p> <p>15 Q. You wanted to let them know that it was -- that the sonogram bill was being considered on an emergency basis; is that correct?</p> <p>16 A. Yes.</p> <p>17 Q. And so it was something noteworthy you wanted your constituents to know about; is that right?</p>
<p style="text-align: center;">258</p> <p>1 had conversations.</p> <p>2 A. Yes, I did.</p> <p>3 Q. (By Mr. Fisher) And what kind; written, verbal?</p> <p>4 A. I believe it was limited to verbal.</p> <p>5 Q. And who initiated these conversations?</p> <p>6 A. I believe I did.</p> <p>7 Q. And returning to SB 14, why did SB 14 need to 8 be considered in the first 60 days of the Legislature?</p> <p>9 A. That would be speculation.</p> <p>10 MR. SWEETEN: Yeah, that calls for his 11 mental impressions, thoughts, opinions about legislation 12 and thus, it would be subject to the legislative 13 privilege.</p> <p>14 A. Yeah, I assert legislative privilege.</p> <p>15 Q. (By Mr. Fisher) After giving emergency 16 designation, does a bill automatically get considered in 17 60 days?</p> <p>18 MR. SWEETEN: You can answer the effect of 19 emergency legislation.</p> <p>20 A. It doesn't automatically get considered. It's 21 eligible to be considered.</p> <p>22 Q. (By Mr. Fisher) Is this something that happens 23 regularly?</p> <p>24 A. That's a broad definition of the word 25 "regularly." It is -- and again, you have to check the</p>	<p style="text-align: center;">260</p> <p>1 A. Yes.</p> <p>2 Q. So he we could take a look at what was 3 previously marked as Exhibit 45, again, the declaration 4 of Senator Uresti.</p> <p>5 A. Okay.</p> <p>6 Q. And I'll have you look at 6 and 7 of that declaration now.</p> <p>7 A. Okay. I'm looking at it.</p> <p>8 Q. Just let me know when you're done reading Paragraph 6 and 7, please.</p> <p>9 A. Okay. Let me walk right through it. (Reading documents.) I have read it.</p> <p>10 Q. So these paragraphs are describing what occurred prior to a vote on HB 218; is that correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. Do you remember what HB 218 was?</p> <p>13 A. I didn't until I read -- read it here.</p> <p>14 Q. And what was HB 218?</p> <p>15 A. HB, standing for House Bill 218 was the photo identification bill in 2007.</p> <p>16 Q. And do you dispute any of the facts in Paragraph 6 or 7 concerning the attempt to pass HB 218 in Senator Uresti's absence?</p> <p>17 MR. SWEETEN: Okay. Hold on a minute. In answering the question, don't reveal conversations that</p>

<p style="text-align: center;">261</p> <p>1 you've had with other legislators, legislative staff, or 2 matters subject to the legislative privilege.</p> <p>3 A. The answer is, I have no knowledge of the facts 4 as he has laid those out here.</p> <p>5 Q. (By Mr. Fisher) Did you take a position on 6 HB 218? Did you support HB 218?</p> <p>7 A. Yes.</p> <p>8 Q. Were you surprised that HB 218 did not pass the 9 Senate?</p> <p>10 A. I would --</p> <p>11 MR. SWEETEN: Hold on a minute. You're 12 asking for his thoughts and mental impressions about a 13 bill. I think that calls for matters subject to the 14 legislative privilege. You can ask him if he voted for 15 it and about public matters related to it.</p> <p>16 Q. (By Mr. Fisher) Was HB 218 a good bill in your 17 opinion and did you support it?</p> <p>18 MR. SWEETEN: Don't answer as to your 19 opinions about pending legislation or mental 20 impressions. It's subject to the legislative privilege.</p> <p>21 A. I assert legislative privilege on that aspect 22 of the question. I did vote for it.</p> <p>23 MR. SWEETEN: And objection, compound.</p> <p>24 Q. (By Mr. Fisher) Was there a vote taken on 25 HB 218, Senator?</p>	<p style="text-align: center;">263</p> <p>1 mental impressions about legislation. Okay? So you can 2 answer as to the words here.</p> <p>3 A. Do you want to rephrase that or --</p> <p>4 Q. (By Mr. Fisher) When I asked whether you were 5 disappointed that HB 218 did not pass the Senate, you 6 asserted legislative privilege. I am now asking a 7 public document, where, underneath the title, 8 Disappointments of the 80th Legislature, there is a 9 reference to HB 218. And I'm asking whether you were 10 disappointed that HB 218 did not pass the Senate based 11 upon this public record.</p> <p>12 MR. SWEETEN: You can refer to matters on 13 the public record, including this.</p> <p>14 A. Yeah. My newsletter would -- says what it 15 says. The inability to pass HB 218 is listed under 16 Disappointments of the 80th Legislature.</p> <p>17 Q. (By Mr. Fisher) Do you remember the vote on 18 HB 218, Senator?</p> <p>19 A. Do you mean the vote total or how it went down?</p> <p>20 Q. The vote that took place on the Senate Floor.</p> <p>21 A. For clarification, do you mean what the number 22 was or how it went down?</p> <p>23 Q. Do you remember the circumstances of the vote 24 on HB 218 on the Senate Floor, Senator?</p> <p>25 A. Vaguely, but do I remember. I do remember it.</p>
<p style="text-align: center;">262</p> <p>1 A. Yes. (Exhibit 173 marked for identification.)</p> <p>2 Q. Let me hand you what's been marked Exhibit 173. 3 And this is a similar newsletter describing 4 accomplishments of the 80th Session of the Texas 5 Legislature.</p> <p>6 A. Yes.</p> <p>7 Q. And I'll direct your attention to 8 "Disappointments of the 80th Legislature."</p> <p>9 A. Yes.</p> <p>10 Q. And we have Electoral Integrity, under which 11 there's some discussion of HB 218, and this is on the 12 third page.</p> <p>13 A. Yes.</p> <p>14 Q. So does this, you know, change your opinion 15 about whether you were disappointed that HB 218 did not 16 pass the Senate? This public statement, I might add.</p> <p>17 MR. SWEETEN: Okay. Well, let me first 18 say that I'm going to object to the question and the 19 preface of it. I think it misstates his testimony about 20 disappointment. I think we assert a privilege as to his 21 personal feelings with respect to that.</p> <p>22 He can answer questions about a public 23 statement made, but in answering those questions about a 24 public statement made, don't reveal your thoughts and</p>	<p style="text-align: center;">264</p> <p>1 I do remember it.</p> <p>2 Q. I'm going to hand you what I'll mark as 3 Exhibit 174. (Exhibit 174 marked for identification.)</p> <p>4 Q. (By Mr. Fisher) This is a Houston Chronicle 5 article from May 19th, 2011. And I'll direct your 6 attention to the second page, at the end of the second 7 page of the document, which -- there's a sentence that 8 starts, "On the first day."</p> <p>9 A. Oh, I'm sorry. On the second page?</p> <p>10 Q. Correct.</p> <p>11 MR. SWEETEN: Yeah. It's right down here.</p> <p>12 A. Okay.</p> <p>13 Q. (By Mr. Fisher) And so we have, "On the first 14 of the session, Senator Dan Patrick, Republican, 15 Houston, tried to kill the rule arguing that it stifles 16 debate. This once again underscores why the two-thirds 17 rule has outlived its time, Patrick said Friday. 'This 18 should never have come to this. Our concern is for 19 Mario's recovery. No one wants to be put in a position 20 that makes it seem like we're taking advantage of 21 someone's health to pass a bill.'" And then underneath 22 Bad Timing, there's another reference to you there where 23 it says, "Patrick said Dewhurst is now in the position 24 of looking unsympathetic to Gallegos's situation for</p>

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1 failing to pass a bill Republicans strongly support."

2 Do you remember these statements?

3 A. I don't remember them, but I'm reading them, so

4 they were made a long time ago.

5 Q. Do you have any disagreement with the substance

6 of these statements that are attributed to you?

7 A. No.

8 Q. And what did you mean by taking advantage of

9 someone's health to pass a bill?

10 MR. SWEETEN: You can answer to the extent

11 that this is a matter of public record. Don't reveal

12 thoughts, opinions, mental impressions about

13 legislation, though. But you can answer.

14 A. Yes. I think the statement, as I read it, and

15 I haven't seen it for a long time, accurately reflects

16 the situation.

17 Q. (By Mr. Fisher) And what was the situation,

18 Senator?

19 A. That because of the 21 vote rule, the -- and in

20 2007, we had 20 Republicans, not 19. So if one Democrat

21 was missing, then, if memory serves me right, we would

22 be able to pass it. There's a sliding scale of the 21

23 vote rule. You don't need 21 if less than 31 senators

24 are there. But I forgot where the break point is.

25 So, the point is that if Mario wasn't

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1 question, which is did --

2 A. Yeah, I didn't know it. Yeah, I didn't know at

3 the time.

4 Q. (By Mr. Fisher) Do you remember the

5 circumstances of HB 218 being brought to the Floor of

6 the Senate for a vote?

7 MR. SWEETEN: Don't reveal communications

8 you've had with legislators, legislators' staff or your

9 mental impressions, but you can answer to the extent --

10 THE WITNESS: Yeah. I mean, I'll

11 remember. Sorry, I didn't mean to speak over you.

12 Q. (By Mr. Fisher) And what is Senator Uresti's

13 race, to your knowledge?

14 A. Latino.

15 Q. And what is Senator Gallegos's race, to your

16 knowledge?

17 A. Latino.

18 Q. And you're aware of the areas of Texas that

19 they represent?

20 A. Yes.

21 Q. Did you have any concerns about holding the a

22 vote on photo ID when a Hispanic member of the Senate

23 was sick and not on the Senate Floor?

24 MR. SWEETEN: Did he mention concerns? Is

25 that what you said.

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1 there, we, apparently, this is from memory, would have

2 had enough votes to pass the bill. And so my statement

3 reflects that, you know, no one -- you know, I say here,

4 no one wants to be put in a position that it looks like

5 you're taking advantage of someone's health because if

6 Mario, who was recovering from kidney -- I think he had

7 a kidney replacement -- was recovering, and if he is not

8 there, that's what the statement says.

9 Q. And why would that have made someone look

10 unsympathetic?

11 MR. SWEETEN: Don't reveal specific mental

12 impressions you have about legislation. You can discuss

13 matters of the public record or public statements

14 regarding this without revealing those.

15 A. Yeah. I mean, the statement speaks for

16 itself. You know, everyone knew that Mario was ill, and

17 I think the statement speaks for itself, that it says

18 what it says. It's pretty clear to me.

19 Q. (By Mr. Fisher) And based upon Exhibit 45,

20 which is the declaration of Senator Uresti, was he also

21 sick at the time that HB 218 was brought to the Floor of

22 the Senate?

23 A. I didn't know that at the time. You know, I

24 discovered that after the fact. There --

25 MR. SWEETEN: Yeah, just answer his

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1 MR. FISHER: Yes. Did he have any

2 concerns.

3 MR. SWEETEN: Yeah. I think you're asking

4 for his mental impression, and I think would be subject

5 to the legislative privilege. It's about legislation

6 and his concerns and thought process.

7 A. Yeah. I would assert legislative privilege on

8 advice of counsel.

9 Q. (By Mr. Fisher) Do you remember there being a

10 calendar change to bring HB 218 to the Floor?

11 A. I don't remember that. I just read that in

12 Senator Uresti's exhibit. But I don't remember that.

13 Q. Did you have any concerns about holding a vote

14 on HB 28, given the constituencies that the Senators

15 represent?

16 MR. SWEETEN: That calls for his mental

17 impressions and is subject to the legislative privilege.

18 A. And I assert legislative privilege on advice of

19 counsel.

20 Q. (By Mr. Fisher) And so was there a vote

21 eventually taken on HB 218 in the Senate?

22 MR. SWEETEN: You can answer.

23 A. Yes.

24 Q. (By Mr. Fisher) And how many votes were taken?

25 A. I believe there were two votes.

<p style="text-align: center;">269</p> <p>1 Q. And when HB 218 first went to the Senate Floor 2 for a vote, were any senators absent?</p> <p>3 A. Yes.</p> <p>4 Q. And who was that?</p> <p>5 A. Senator Uresti, and I believe Senator Hegar.</p> <p>6 Q. And do you remember Lieutenant Governor 7 Dewhurst issuing a letter concerning this situation 8 after the votes were taken on HB 218?</p> <p>9 A. I don't remember that.</p> <p>10 Q. I'll hand you what's previously been marked as 11 Exhibit 3. And this is titled Texas Weekly, the Week in 12 the Rearview Mirror, and this describes -- I'll let you 13 take a look at it, Senator, but it describes a letter 14 from Lieutenant Governor Dewhurst.</p> <p>15 MR. SWEETEN: I caution the witness to 16 review the document.</p> <p>17 A. Yeah, I am. Yeah. Let me read this.</p> <p>18 (Reading document.) Is this whole thing a 19 letter? I'm not -- here's Dewhurst.</p> <p>20 Q. (By Mr. Fisher) I think if you take a look, 21 Senator, you'll notice that a letter -- a draft of the 22 letter is included here, as well as a second letter that 23 was issued by Lieutenant Governor Dewhurst soon after 24 the issuance of the first letter, I believe the next 25 day. And if you'll take a look at the second page of</p>	<p style="text-align: center;">271</p> <p>1 debate about these issues in the Senate, the votes that 2 were taken on HB 218?</p> <p>3 MR. SWEETEN: You can answer as phrased.</p> <p>4 A. Yes.</p> <p>5 Q. (By Mr. Fisher) And do you remember what that 6 public debate concerned?</p> <p>7 A. I don't remember the specifics.</p> <p>8 Q. So I'll introduce Exhibit 175. This is a Texas 9 Observer article from June 15th, 2007. 10 (Exhibit 175 marked for identification.) 11 Q. (By Mr. Fisher) And I'll direct your attention 12 to the third page. And if you look before the 13 subheading says, "Controlling Craddick's Crashes," and 14 there's two paragraphs before.</p> <p>15 A. Let me get to the right page. Hold on.</p> <p>16 Q. Uh-huh.</p> <p>17 A. Okay.</p> <p>18 Q. And so we have, "The next day, Dewhurst's 19 office released an angry letter calling Senate Democrats 20 unAmerican and Senator Whitmire tried to make himself a 21 victim. Dewhurst then insisted he hadn't authorized the 22 letter and that a staffer had written it. The Senate 23 took a day off so they could caucus privately. Members 24 sent three delegates to Dewhurst's office for an airing 25 of grievances." Do you remember that private caucus</p>
<p style="text-align: center;">270</p> <p>1 the document, you'll see that the paragraph that starts, 2 "The Lieutenant Governor disavowed his earlier statement 3 about the voter ID bill issued while the Senate was 4 caucusing on that subject on whether 11 senators should 5 be allowed to block a vote on it. He says he didn't 6 authorize the earlier statement. Here is his new 7 version with the cover letter." And so everything 8 previous to that paragraph is the old letter and 9 everything that's under it is describing, you know, an 10 issue with that previous letter.</p> <p>11 Do you remember these letters from Senator 12 -- from Lieutenant Governor Dewhurst creating any issues 13 in the Senate with other senators?</p> <p>14 MR. SWEETEN: Don't reveal communications 15 with senators or senate staff.</p> <p>16 A. Yeah, I invoke the legislative privilege on 17 advice of counsel.</p> <p>18 Q. (By Mr. Fisher) Do you remember your reaction 19 to these letters by Lieutenant Governor Dewhurst around 20 the time of the passage of HB 218?</p> <p>21 MR. SWEETEN: Object, based on legislative 22 privilege. You're asking him to reveal his thoughts, 23 mental impressions about matters affecting legislation.</p> <p>24 A. I invoke the legislative privilege.</p> <p>25 Q. (By Mr. Fisher) Do you remember any public</p>	<p style="text-align: center;">272</p> <p>1 happening?</p> <p>2 A. I don't know.</p> <p>3 Q. "For the next week or so, the Lieutenant 4 Governor avoided the dais in the Senate chamber. In a 5 meeting with reporters after the session, Dewhurst 6 claimed victory for everything positive that came out of 7 it, but with a pained look on his face, he carefully 8 explained that he'd just rather not get into the voter 9 ID debacle. Freshman Republican Senator Dan Patrick, a 10 conservative Houston radio talk show host -- "radio 11 host, who also might challenge Dewhurst for the 12 Governorship in 2010, was less reserved." Quote, "'If 13 you're going to run a play, you better make you sure you 14 run it right,' he told the Observer. 'We're the ones in 15 charge. We have no excuses.'"</p> <p>16 So this article discuss the two Dewhurst 17 letters --</p> <p>18 A. Uh-huh.</p> <p>19 Q. -- that we had talked about in the context of 20 Exhibit 3; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. And it discusses the votes that were taken on 23 HB 218, correct?</p> <p>24 A. I still haven't read this entire thing, so, if 25 that's what it discusses, that would be accurate.</p>

<p style="text-align: center;">273</p> <p>1 Q. And what did you mean by, "If you're going to 2 run a play, you better make sure you run it right"?</p> <p>3 MR. SWEETEN: You can answer to the extent 4 that you're not revealing matters subject to the 5 legislative privilege, including the communications we 6 discussed or your mental impressions or thoughts about a 7 bill.</p> <p>8 A. Yeah. The truth is, I had forgotten all about 9 these things until you brought them to my attention. I 10 had forgotten about the letters. I hadn't even thought 11 about it for almost six years. So, you know, again, it 12 says if you're going to run a play, you better make sure 13 you run it right.</p> <p>14 Q. Are you reading from the exhibit, Senator?</p> <p>15 A. Yes, sir.</p> <p>16 Q. Do you have any further explanation of what you 17 meant by this quote?</p> <p>18 MR. SWEETEN: The same instruction.</p> <p>19 A. Yeah, I would assert legislative privilege. I 20 think it speaks for itself, but I would assert 21 legislative privilege on advice of counsel.</p> <p>22 Q. (By Mr. Fisher) So you'll assert legislative 23 privilege over a public statement you made to a 24 newspaper regarding Lieutenant Governor Dewhurst's 25 issuance of letters about the votes on HB 218; is that</p>	<p style="text-align: center;">275</p> <p>1 MR. SWEETEN: Don't reveal matters subject 2 to the legislative privilege.</p> <p>3 A. Yeah.</p> <p>4 MR. SWEETEN: Including conversations or 5 thoughts or mental impressions.</p> <p>6 A. Yeah. I mean, I would assert legislative 7 privilege on that.</p> <p>8 Q. (By Mr. Fisher) Well, was it a Hail Mary? Was 9 it an end around the rules? What kind of play are we 10 talking about here?</p> <p>11 MR. SWEETEN: The same objection. Same 12 instruction.</p> <p>13 A. Yeah. I would invoke legislative privilege on 14 advice of counsel.</p> <p>15 Q. (By Mr. Fisher) Let me introduce Exhibit 176, 16 and this is an article from the -- I believe it's the 17 Austin American-Statesman, and this is May 18th, 2007. 18 (Exhibit 176 marked for identification.)</p> <p>19 Q. (By Mr. Fisher) And you'll have to look -- and 20 I know it's small writing. I apologize for that. 21 About two-thirds of the way down the page, 22 we have a paragraph that begins, "Some Republicans." 23 And it says, "Some Republicans, particularly Senator Dan 24 Patrick, Republican of Houston, said the gentlemen's 25 agreements and the Lieutenant Governor uses to promote</p>
<p style="text-align: center;">274</p> <p>1 correct?</p> <p>2 MR. SWEETEN: I want to make sure the 3 record is clear. What my instruction is, that to the 4 extent that you're providing an answer to this question 5 would require you to reveal thoughts, mental impressions 6 about a bill, don't do so.</p> <p>7 THE WITNESS: Okay.</p> <p>8 MR. SWEETEN: You can answer about matters 9 of the public record or public speeches, but don't 10 reveal those thoughts or mental impressions about a 11 bill. Just so that's clear, that instruction, and so 12 your application of that instruction is clear.</p> <p>13 A. So if you're asking me what I did mean by that?</p> <p>14 Q. (By Mr. Fisher) That's the question, Senator.</p> <p>15 A. As it applies to that bill or --</p> <p>16 Q. As it applies to the votes that were taken on 17 HB 218, which were the subject of Lieutenant Governor 18 Dewhurst's letter.</p> <p>19 A. Okay. I'm trying to answer your question for 20 you without violating my legislative privilege.</p> <p>21 The fact that we didn't pass the bill 22 means we didn't pass the bill. And, you know, I don't 23 remember that exact quote five and a half years later, 24 but that's what I was talking about.</p> <p>25 Q. What play was trying to be run, Senator?</p>	<p style="text-align: center;">276</p> <p>1 harmony hurt Republicans on core issues such as voter ID 2 identification. 'I believe there is a consensus among 3 some senators that we either ought to follow the rules 4 all the time or ignore them all the time,' Patrick said. 5 Patrick, one of the few senators who agreed to analyze the 6 past couple days said Dewhurst has opened himself to 7 leadership questions because he has discussed running 8 for Governor. 'I think he reacted the way he did, 9 because he was challenged on what I think is a 10 definitive issue,' Patrick said. 'He was challenged, 11 and he blinked by allowing the second vote. The 12 Democrats won this round.'"</p> <p>13 So what did you mean by, "I believe there 14 is a consensus among some senators that we either ought 15 to follow the rules all the time or ignore them all the 16 time?"</p> <p>17 MR. SWEETEN: You can answer with respect 18 to matters of the public record, public statements 19 made. Do not reveal thoughts, mental impressions about 20 legislation or communications that you've had regarding 21 this issue.</p> <p>22 A. Yeah. I would invoke the legislative privilege 23 on this, when your question -- the statement speaks for 24 itself.</p> <p>25 Q. (By Mr. Fisher) Is that on the advice of</p>

<p style="text-align: center;">277</p> <p>1 counsel, Senator --</p> <p>2 A. Yes.</p> <p>3 Q. -- you're invoking legislative privilege?</p> <p>4 A. Yes.</p> <p>5 MR. SWEETEN: And let me clarify, whenever</p> <p>6 I said communications, I mean the communications that</p> <p>7 I've outlined as the day has progressed, which are</p> <p>8 constituents, representatives, legislative staff, state</p> <p>9 agencies, and the Legislative Council. I'm trying to</p> <p>10 make sure my instruction was clear.</p> <p>11 MR. FISHER: But just to be clear, the</p> <p>12 communication we're talking about here is a quote from</p> <p>13 Senator Patrick that appears in the news article.</p> <p>14 MR. SWEETEN: And he can testify about the</p> <p>15 quote, but not to the extent that it reveals his</p> <p>16 thoughts, mental impressions about legislation. So I'm</p> <p>17 going to let him answer that, except to the extent that</p> <p>18 it reveals those.</p> <p>19 Q. (By Mr. Fisher) Well, let me rephrase.</p> <p>20 Senator, were the rules not being followed when HB 218</p> <p>21 was passed?</p> <p>22 MR. SWEETEN: Same instruction.</p> <p>23 A. Yes, the rules were being followed.</p> <p>24 Q. (By Mr. Fisher) So what did you mean by,</p> <p>25 "Either we ought to follow the rules all the time or</p>	<p style="text-align: center;">279</p> <p>1 We've seen many articles talking about what happened</p> <p>2 during the passage of 218, the two votes that were</p> <p>3 taken, the letters by Lieutenant Governor Dewhurst. I</p> <p>4 know this was six years ago, but is this a usual event?</p> <p>5 Does this happen every legislative session?</p> <p>6 A. No.</p> <p>7 Q. Do you think the rules of the Texas State</p> <p>8 Senate should be ignored? Are you -- are you one that</p> <p>9 believes they ought to be followed or ignored all the</p> <p>10 time?</p> <p>11 MR. SWEETEN: Objection. I think you're</p> <p>12 asking for his mental impressions about specific</p> <p>13 legislation, and I think those are subject to the</p> <p>14 legislative privilege. His own personal beliefs about</p> <p>15 legislation are privileged.</p> <p>16 A. Yeah, I would assert legislative privilege on</p> <p>17 the advice of counsel.</p> <p>18 Q. (By Mr. Fisher) Do you think the Senate's rules</p> <p>19 should be followed?</p> <p>20 A. Which Senate rule?</p> <p>21 Q. Do you think that the rules regarding when a</p> <p>22 bill can be brought to the Floor of the Senate should be</p> <p>23 followed?</p> <p>24 A. I think the rules that are in place at a given</p> <p>25 time should be followed.</p>
<p style="text-align: center;">278</p> <p>1 ignore them all of the time?"</p> <p>2 MR. SWEETEN: The same instruction.</p> <p>3 A. Yeah. I'll assert legislative privilege.</p> <p>4 Q. (By Mr. Fisher) So you assert legislative</p> <p>5 privilege to describe what it is that you mean by a</p> <p>6 public statement; is that correct?</p> <p>7 A. No. I think the public statement speaks for</p> <p>8 itself.</p> <p>9 Q. And you won't go any further to explain what it</p> <p>10 is you meant by that language that appears in the</p> <p>11 newspaper article; is that correct, Senator?</p> <p>12 A. First of all, I don't remember. Again, I'm</p> <p>13 going back -- you're going back almost six years ago and</p> <p>14 asking me to remember, and, you know, I haven't seen</p> <p>15 this statement in a long time, and, you know, in the</p> <p>16 context of the time, I'm not sure.</p> <p>17 Q. Senator, at the time that HB 218 was brought to</p> <p>18 a vote -- and I think that based upon all that we have</p> <p>19 talked about, the testimony that we have talked about</p> <p>20 today, there was a -- would you agree that it was an</p> <p>21 unusual situation?</p> <p>22 MR. SWEETEN: Objection to the question as</p> <p>23 vague. I'm sorry, what --</p> <p>24 MR. FISHER: I'll rephrase.</p> <p>25 Q. (By Mr. Fisher) Was it a newsworthy event?</p>	<p style="text-align: center;">280</p> <p>1 Q. Well, let me get your thinking on something,</p> <p>2 Senator. If a Senator is out sick or a Senator is</p> <p>3 unable to come to the Floor of the Senate to take a</p> <p>4 vote, should the Senate take a vote on the bill in that</p> <p>5 instance?</p> <p>6 MR. SWEETEN: Are you asking in the</p> <p>7 context of this specific instance, or are you asking as</p> <p>8 a general matter?</p> <p>9 MR. FISHER: I'm asking to get the</p> <p>10 Senator's thinking on whether a vote should be taken on</p> <p>11 a bill when a senator, for whatever reason, is not</p> <p>12 present on the Senate Floor.</p> <p>13 MR. SWEETEN: Objection to the question as</p> <p>14 vague. And, I mean, to the extent you're discussing</p> <p>15 this Senate Bill 218, I think that would be a matter</p> <p>16 subject to the legislative privilege. To the extent you</p> <p>17 can reveal your answer without violating legislative</p> <p>18 privilege, you can do so.</p> <p>19 A. Okay. I can answer without revealing.</p> <p>20 And the facts are that this is a common</p> <p>21 occurrence, which usually occurs later in session. The</p> <p>22 members of the Senate are older. They have student --</p> <p>23 they have children graduating from high school or</p> <p>24 college or grandchildren or weddings, and there have</p> <p>25 been a number of senators who have missed those events</p>

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1 to be on the Senate Floor because votes can be taken if
 2 they're not there. The Senate cannot operate, and get
 3 the job done in the amount of time we have, if every
 4 time a senator is missing, for whatever reason, that,
 5 stop everything, we can't vote today on this.

6 Q. (By Mr. Fisher) Well, Senator, I know you pride
 7 yourself on voting on every bill. Has a vote ever been
 8 taken in your absence on the Senate Floor?

9 MR. SWEETEN: You can answer as a factual
 10 matter.

11 A. Yeah. I don't think I've ever missed -- I
 12 think I've missed eight votes out of 13,000, and never
 13 -- never a priority piece of legislation or -- those
 14 votes may have been on -- I'm not sure how many votes
 15 I've missed, but I don't miss a day.

16 Q. (By Mr. Fisher) Are you aware of votes being
 17 taken while senators -- and you mentioned in your
 18 testimony senators being away for weddings and other
 19 things that happen. Are you aware of votes being taken
 20 when senators are actually in the Capitol and just not
 21 in the Senate chamber?

22 A. I have no knowledge of that. No, I really
 23 don't know?

24 Q. So you're not aware that that's ever happened
 25 before?

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1 MR. SWEETEN: Before my objections.
 2 (The requested portion was read back by
 3 the court reporter.)

4 A. Which I said I had no knowledge, and then you
 5 asked --

6 Q. (By Mr. Fisher) I asked: Did it happen in the
 7 context of HB 218?

8 A. I believe my earlier testimony this afternoon
 9 was that I believe Senator Uresti and Senator Hegar were
 10 not on the Floor. I'm not certain of that, but I
 11 believe that.

12 Q. Are you aware of Senator Whitmire not being on
 13 the Floor during the vote on HB 218?

14 A. I was not aware at the time, but was made aware
 15 after the fact.

16 Q. Is it unusual for a senator to be checked in,
 17 meaning -- and you described senators being away for
 18 weddings and just not present, given the large amount of
 19 bills that are considered by the Senate; is that
 20 correct? Is that your testimony?

21 A. Yeah. It's not frequent, but there are people
 22 who are away at various times for various personal
 23 reasons.

24 Q. Is it unusual for a senator to be checked in to
 25 the Senate Floor, meaning they are present, but just not

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1 MR. SWEETEN: Objection, asked and
 2 answered.

3 A. Yeah, I just don't -- I just don't know.

4 Q. (By Mr. Fisher) You don't know, or are you
 5 aware of it ever happening before?

6 MR. SWEETEN: Objection, asked and
 7 answered.

8 A. I've answered your question.

9 Q. (By Mr. Fisher) Did it happen in the context of
 10 HB 218, based upon the declaration of Senator Uresti?

11 MR. SWEETEN: Objection. I think he's
 12 already testified about this issue. And so I think
 13 you're plowing the same ground you plowed. I think he's
 14 already testified about -- you had him read the specific
 15 paragraphs that he claimed, and now you're asking it
 16 again. I think this is becoming -- I mean, you're
 17 asking the same questions over and over.

18 I'm going to let you answer it this time,
 19 but, I mean, to the extent you're not revealing any
 20 matters of privilege, including conversations with any
 21 senators, you can answer to the extent you know.

22 A. Do you mind just repeating that? I'm sorry.
 23 MR. SWEETEN: We can have him read it.

24 MR. FISHER: Can you read the last
 25 question, please?

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1 physically in the chamber for votes to be taking place?

2 A. That actually happens on a -- I don't know,
 3 frequent may be a broad use of the word. But it does
 4 happen, particularly at the end of session, because we
 5 could be meeting with a constituent in our office. We
 6 are often over at the House chamber, you know, trying to
 7 get a bill passed. You know, we're doing lots of
 8 things. So legislation does move and bills do pass with
 9 less than all the senators. In fact, there are times
 10 when less than half the senators are on the Floor when
 11 legislation is moving. So that happens.

12 Q. But you pride yourself on this not happening to
 13 you; is that right, Senator?

14 A. I do.

15 MR. FISHER: We can either continue or we
 16 can take a quick break?

17 (Recess from 6:57 to 7:02 p.m.)

18 Q. (By Mr. Fisher) Senator Patrick, is illegal
 19 immigration one of the main policy issues you focus on
 20 in the Senate?

21 A. Yes.

22 Q. And you said it's one of the main concerns of
 23 the citizens of your district, District 7; is that
 24 correct?

25 A. Yes.

<p style="text-align: center;">285</p> <p>1 Q. And you've introduced bills on this issue in 2 areas concerning sanctuary cities and other areas; is 3 that right?</p> <p>4 A. Yes.</p> <p>5 Q. And one of these issues was an amendment 6 requiring anyone getting a Texas driver's license to 7 prove they are in the country legally; is that correct?</p> <p>8 A. I don't remember it as of today, but if that's 9 the record, then... I have a lot of legislation, so, you 10 know, if that's what you have, then that would be 11 correct.</p> <p>12 Q. And was part of the purpose the SB 14 to 13 prevent noncitizens from voting?</p> <p>14 MR. SWEETEN: Objection, asked and 15 answered. He's already provided his answer on the 16 purpose. You asked him a tremendous number of questions 17 on that issue.</p> <p>18 Q. (By Mr. Fisher) You can answer, Senator.</p> <p>19 MR. SWEETEN: You can answer the question.</p> <p>20 A. Well, the purpose is to protect the integrity 21 of the ballot box.</p> <p>22 Q. (By Mr. Fisher) And does protecting the 23 integrity of the ballot box include protecting the 24 ballot box from votes by noncitizens?</p> <p>25 A. If you are protecting the integrity of ballot</p>	<p style="text-align: center;">287</p> <p>1 voters who may be ineligible to vote. Of this number, 2 23,114 were possible felons, and 23,576 may be deceased. 3 Since 1992, Harris County Tax Assessor- 4 Collector, and Voter Registrar Paul Bettencourt has 5 cancelled 3,742 registered voters for noncitizenship."</p> <p>6 So with regard to the cancellation of 7 registered voters for noncitizenship, how would the 8 requirements of SB 14 prevent those types of citizens 9 from voting?</p> <p>10 MR. SWEETEN: Objection. You're asking 11 for his mental thoughts and impressions about pending 12 legislation. As such, that would be legislatively 13 privileged. He can answer questions about what's -- 14 about this specific public statement, but to the extent 15 that you would ask him to reveal those mental 16 impressions or opinions or thoughts or communications, 17 that would be a matter of legislative privilege.</p> <p>18 So you can answer to the extent you can do 19 so without revealing matters of privilege.</p> <p>20 A. I would assert legislative privilege.</p> <p>21 Q. (By Mr. Fisher) And is that on the advice of 22 your attorney?</p> <p>23 A. Yeah.</p> <p>24 Q. So you've said that the purpose of SB 14, just 25 to reiterate, was to protect the integrity of the ballot</p>
<p style="text-align: center;">286</p> <p>1 box, then only people who are legally eligible to vote 2 would be able to vote.</p> <p>3 Q. So I'm going to give you another exhibit. 4 (Exhibit 177 marked for identification.)</p> <p>5 Q. (By Mr. Fisher) And it's 177. This is Texas 6 Senator Dan Patrick, Fall of 2008. And this is one of 7 the, you said, newsletters that is paid for, I guess, by 8 the Legislature that you're able to send out to your 9 constituents; is that right?</p> <p>10 A. I believe so.</p> <p>11 Q. And this differs from the previous exhibit, the 12 Capitol View, which was the e-mail blast?</p> <p>13 A. Correct.</p> <p>14 Q. But this is something you said earlier that you 15 do review the contents of before it goes out; is that 16 right?</p> <p>17 A. Correct.</p> <p>18 Q. And so underneath the heading, Texas Lags 19 Behind the World in Voting Integrity on Page 3?</p> <p>20 A. Yes, sir.</p> <p>21 Q. We have, "Today all that is needed to vote is a 22 voter registration card. Unfortunately, photo 23 identification is not required to receive a registration 24 card. After reviewing voter registrations in Texas for 25 2007, the State Auditor identified 49,049 registered</p>	<p style="text-align: center;">288</p> <p>1 box. We have here, under Voter Integrity, a concern 2 about a cancellation by the voter registrar of Harris 3 County of the registered voters for noncitizenship. 4 So is it fair to say that this was part of 5 the ambit of voter integrity, noncitizenship?</p> <p>6 MR. SWEETEN: I'm going to object to the 7 question as calling for matters subject to the 8 legislative privilege. You're asking him to reveal 9 thoughts, mental impressions, opinions or motivations 10 about legislation or in furtherance of the legislative 11 process. To do so invades the legislative privilege. 12 So I'm going to instruct you not to answer to the extent 13 that you would have to so reveal those opinions and 14 thoughts. You can answer as to the specific public 15 statement, but don't reveal your thoughts about 16 legislation.</p> <p>17 A. Yeah. I assert legislative privilege on the 18 advice of counsel.</p> <p>19 Q. (By Mr. Fisher) Would noncitizens voting impact 20 vote integrity? Based upon your statement here, the 21 fact that it's contained under a heading called "Texas 22 Lags Behind the World in Voter Integrity" is the fact 23 that noncitizens were cancelled as registered voters, is 24 that something that impacts voter integrity?</p> <p>25 MR. SWEETEN: The same objection as to</p>

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1 legislative privilege. Also objection, vague.
 2 A. I assert legislative privilege based on the
 3 advice of counsel.
 4 Q. (By Mr. Fisher) Can a noncitizen receive a
 5 driver's license in Texas at this time?
 6 MR. SWEETEN: You can answer as a factual
 7 matter.
 8 A. I'd have to go back and look at the law. There
 9 may have been some changes to that.
 10 Q. (By Mr. Fisher) Well, did you ever propose an
 11 amendment that required anyone getting a Texas driver's
 12 license to prove they're in the country legally?
 13 MR. SWEETEN: You can testify as to
 14 matters of public record.
 15 A. Yeah. If that is the public record, then I
 16 did. Again, I know it may seem obvious to you, but
 17 hundreds and hundreds and hundreds of bills and
 18 amendments, I cannot remember every specific thing. So
 19 when you show it to me, if you have it, it helps refresh
 20 my memory.
 21 Q. (By Mr. Fisher) But illegal immigration is one
 22 of main areas of focus in your work as a Texas State
 23 Senator; is that correct?
 24 A. Yes.
 25 Q. And we mentioned, it's one of the main concerns

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1 of your citizens, so it's an area that you propose
 2 legislation in and actively work in; is that right?
 3 A. Yes.
 4 Q. Let's turn to Exhibit 5, and that's SB 14.
 5 A. Okay.
 6 Q. So again, looking at the text of the bill,
 7 Section 14, which we discussed previously.
 8 A. I'm not there yet.
 9 Q. And I'll let you take a look at Page 9 again,
 10 which we've discussed, and this is Documentation of
 11 Proof of Identification.
 12 A. Okay.
 13 Q. In any of those Documentation of Proof of
 14 Identification, can you tell me how it is that a
 15 noncitizen would be prevented from voting?
 16 MR. SWEETEN: You can answer as to the
 17 text of the bill.
 18 A. You asked me how a -- can you read that back
 19 for me, please?
 20 (Requested portion read back by the court
 21 reporter.)
 22 MR. SWEETEN: Don't reveal matters of
 23 legislative privilege, including your mental thoughts,
 24 impressions, investigation regarding legislation. But
 25 you can testify as to the text of the bill and specific

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1 provisions.
 2 A. Well, I can only refer back to what the bill
 3 says.
 4 Q. (By Mr. Fisher) Well, Senator, you're a
 5 resident of Texas; is that correct?
 6 A. Yes, I am.
 7 Q. Have you ever served in the military?
 8 A. I have not.
 9 Q. Do you know if you have to be a citizen to get
 10 a military identification card?
 11 A. I don't know.
 12 Q. Do you know if you have to be a citizen to get
 13 a license to carry a concealed handgun in Texas?
 14 A. You know, I'd have to go back and look at the
 15 law. I believe you do, but I'd have to look at the law.
 16 Q. And we discussed the fact that you're not sure
 17 about a Texas driver's license, whether you need to be a
 18 citizen to get a Texas driver's license; is that right?
 19 A. Yeah. I'm not sure of the status of that at
 20 this moment in time.
 21 Q. But it's possible you could be a noncitizen and
 22 get a Texas driver's license; is that right?
 23 A. Legally or illegally?
 24 Q. Legally.
 25 A. Yeah. I'm not -- again, I'm just not advised

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1 on that. I'd have to look at the law.
 2 Q. Is it legally possible for someone to have a
 3 military identification card and not be a citizen?
 4 A. I don't know how to answer that. I don't know.
 5 Q. Do we have noncitizens serving in the United
 6 States's military?
 7 A. I believe we do, but I'd have to have that
 8 verified by it federal government.
 9 Q. Do you know if any of your constituents are
 10 members of military that are noncitizens?
 11 A. I don't know.
 12 Q. And veterans' issues is one of the issues you
 13 pay attention to; is that correct?
 14 A. Yes.
 15 Q. Are you aware of any legislators making
 16 statements about illegal immigrants voting in Texas?
 17 MR. SWEETEN: Don't reveal communications
 18 you've had with legislators or legislative staff. You
 19 can reveal matters of the public record.
 20 A. Yeah. I'm not specifically aware. I don't
 21 recall anything as we sit here.
 22 Q. (By Mr. Fisher) Have you ever heard of a Texas
 23 State legislators who voted in favor of SB 14 say that
 24 would it prevent illegal immigrants from voting?
 25 MR. SWEETEN: The same instruction.

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1 A. Yeah, I just don't recall.
 2 Q. (By Mr. Fisher) Have you ever heard of a Texas
 3 legislator who voted in favor of SB 14 say it would
 4 prevent a legitimately registered voter from voting in
 5 Texas?
 6 MR. SWEETEN: The same instruction.
 7 A. Yeah, I don't recall.
 8 Q. (By Mr. Fisher) Have you ever heard of a Texas
 9 legislator who voted in favor of SB 14 say it would
 10 prevent racial or ethnic minorities from voting in
 11 Texas?
 12 MR. SWEETEN: The same objection. Same
 13 instruction. Go ahead.
 14 A. Yeah. We're talking about on the public
 15 record? That's what I thought all this was prefaced
 16 by. That's what I thought the first question was.
 17 MR. SWEETEN: Okay. And what I'm -- my
 18 instruction is, just don't reveal communications you've
 19 had with legislators or legislative staff in answering
 20 these questions. You can refer to matters of the public
 21 record.
 22 A. Yeah. On the public record, not that I recall.
 23 Q. (By Mr. Fisher) Well, do you know of any -- did
 24 you have any private conversations with any Texas State
 25 legislators who said that SB 14 would prevent racial or

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1 Q. Have you had conversations with anyone
 2 concerning the identity of a noncitizen who voted in a
 3 Texas election?
 4 MR. SWEETEN: You can answer if you had
 5 conversations.
 6 A. If I've conversations about a --
 7 Q. (By Mr. Fisher) A noncitizen voting in Texas
 8 elections.
 9 A. I'm trying to think. Excuse me. I'm tired.
 10 I'm trying to focus on the question and get it right.
 11 It's possible someone has brought it up to me, but
 12 specifically, I can't remember anything at this moment.
 13 But it's possible.
 14 Q. Have you heard a registered voter state that he
 15 or she is not going to vote because they are concerned
 16 their vote will be diluted by illegitimate votes?
 17 A. Again, I can't remember anything specifically
 18 if someone has said that. It's possible.
 19 Q. So it's possible that someone has said that to
 20 you, but nothing comes to mind at this moment?
 21 A. Nothing comes to mind specifically.
 22 Q. Do you believe that SB 14 has put a burden on
 23 voting beyond what already existed?
 24 MR. SWEETEN: Don't answer if your
 25 thoughts, mental impressions, opinions, and motivations

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1 ethnic minorities from voting in Texas, either those who
 2 have favored or opposed the bill?
 3 MR. SWEETEN: You're asking about the
 4 substance of the communication and that he had. If you
 5 could just not load, front end load the question with
 6 the subject matter and ask about more of a general
 7 subject matter, which is what the court has said that he
 8 can answer, I'll allow him to answer it. But as
 9 phrased, I think you're --
 10 Q. (By Mr. Fisher) Did you have conversations with
 11 other senators about SB 14?
 12 MR. SWEETEN: You can answer.
 13 A. Yes.
 14 Q. (By Mr. Fisher) Did any of those conversations
 15 address whether SB 14 would prevent a legitimately
 16 registered voter from voting in Texas?
 17 A. I don't recall.
 18 Q. Were any of those statements concerning an
 19 issue about illegal immigrants voting in Texas
 20 elections?
 21 A. I don't recall.
 22 Q. Are you aware of any allegations in the public
 23 record that SB 14 attempted to play on people's fears of
 24 illegal immigrants voting in Texas elections?
 25 A. Public statements? Yeah, I'm not aware.

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1 about legislation, including Senate Bill 14.
 2 A. I assert legislative privilege on advice of
 3 counsel.
 4 Q. (By Mr. Fisher) Does it require a voter to do
 5 more than they were required to do under Texas law as it
 6 was before SB 14 was passed?
 7 MR. SWEETEN: I think the question asks
 8 for him to reveal thoughts, mental impressions,
 9 opinions, and motivations about legislation. You're
 10 asking him to compare and contrast and reveal those
 11 thoughts in that question.
 12 A. Yeah. I would assert legislative privilege.
 13 MR. SWEETEN: You can rely on the specific
 14 text of the bill, if you want to -- I mean...
 15 Q. (By Mr. Fisher) Well, looking -- you do have
 16 Exhibit 5 open before you, Senator, so just looking at
 17 the bill, does it place additional requirements upon
 18 voting beyond which were there previous to SB 14? Does
 19 it add things?
 20 A. Yes.
 21 Q. Were you concerned that these additional things
 22 might disproportionately impact minority voters?
 23 MR. SWEETEN: Don't answer the question.
 24 It asks for matters of legislative privilege, including
 25 your thoughts, mental impressions, opinions and

<p style="text-align: center;">297</p> <p>1 motivation about legislation.</p> <p>2 A. I assert legislative privilege.</p> <p>3 Q. (By Mr. Fisher) And is that based upon the 4 advice of your counsel?</p> <p>5 A. Yes.</p> <p>6 Q. Did you ever have discussions about whether 7 SB 14 might disproportionately impact minority voters 8 with anyone?</p> <p>9 A. Nothing specific that I recall.</p> <p>10 Q. When you supported SB 14 -- and we talked about 11 your listing as an author -- did you believe you had an 12 obligation, pursuant to Section 5 of the Voting Rights 13 Act, to determine whether it might have an impact on 14 minority voters?</p> <p>15 MR. SWEETEN: Objection, calls for matters 16 subject to the legislative privilege, including your 17 thoughts, mental impressions, opinions and motivations 18 about legislation. Instruct you not to answer the 19 question.</p> <p>20 A. I assert legislative privilege based on my 21 attorneys advice.</p> <p>22 Q. (By Mr. Fisher) So as you sit here today, do 23 you believe that SB 14 might disproportionately impact 24 minority voters?</p> <p>25 MR. SWEETEN: The same objection. You're</p>	<p style="text-align: center;">299</p> <p>1 MR. FISHER: So we'll take a quick break 2 here, very quick, and we'll return back on the record.</p> <p>3 MR. SWEETEN: Okay. Do you mind if we 4 just stay here?</p> <p>5 MR. FISHER: No, not at all.</p> <p>6 Q. (By Mr. Fisher) All right, Senator. We're 7 back.</p> <p>8 A. Okay.</p> <p>9 Q. During the public debate on SB 14, do you 10 remember anyone from the Secretary of State's Office 11 testifying?</p> <p>12 A. I don't remember. I think they might have, but 13 I don't recall.</p> <p>14 Q. Do you recall at any time anyone identifying 15 how many voters might not have the required ID required 16 by SB 14 to vote?</p> <p>17 A. I don't recall that.</p> <p>18 MR. FISHER: So at this time, we'll 19 conclude. We'll keep the deposition open as we have in 20 the past.</p> <p>21 MR. SWEETEN: Based on the --</p> <p>22 MR. FISHER: Based on the pending ruling 23 of the court.</p> <p>24 MR. SWEETEN: Pending rulings of privilege 25 and scope. Okay.</p>
<p style="text-align: center;">298</p> <p>1 asking him to reveal his thoughts, mental impressions, 2 opinions, motivation about legislation, or in 3 furtherance of the legislative process, including SB 14.</p> <p>4 A. I assert legislative privilege based on the 5 advice of counsel.</p> <p>6 Q. (By Mr. Fisher) At any time since the passage 7 of SB 14, have you come to believe it was passed with a 8 discriminatory purpose?</p> <p>9 MR. SWEETEN: Do not reveal your thoughts, 10 mental impressions, opinions, and motivations about 11 legislation. So to the extent that the question asks 12 you to reveal those thoughts, don't answer it. But if 13 it does not, then you can provide that answer.</p> <p>14 A. Excuse me. I assert legislative privilege on 15 the advice of counsel.</p> <p>16 Q. (By Mr. Fisher) And at any time since the 17 passage of SB 14, have you come to believe that it will 18 have a retrogressive effect on minority voters?</p> <p>19 MR. SWEETEN: The same objection and 20 instruction. You can answer to the extent you're not 21 revealing thoughts, mental impressions, opinions and 22 motivation about the legislation, including specifically 23 Senate Bill 14.</p> <p>24 A. I assert legislative privilege on the advice of 25 counsel.</p>	<p style="text-align: center;">300</p> <p>1 MR. FISHER: Yeah.</p> <p>2 MR. SWEETEN: I have no questions. I will 3 reserve questions to Senator Patrick at the time of 4 trial.</p> <p>5 THE WITNESS: Okay. (Signature reserved.) (Deposition concluded at 7:23 p.m.)</p>

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<p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS,) Plaintiff,) VS.) ERIC H. HOLDER, JR. in his) official capacity as Attorney) General of the United States,) Defendant,) ERIC KENNIE, et al.,) Defendant-Intervenors,) TEXAS STATE CONFERENCE OF) CASE NO. 1:12-CV-00128 NAACP BRANCHES,) (RMC-DST-RLW) Three-Judge Court Defendant-Intervenors,) TEXAS LEAGUE OF YOUNG VOTERS) EDUCATION FUND, et al.,) Defendant-Intervenors,) TEXAS LEGISLATIVE BLACK) CAUCUS, et al.,) Defendant-Intervenors,) VICTORIA RODRIGUEZ, et al.,) Defendant-Intervenors.</p> <p>***** ORAL DEPOSITION OF REPRESENTATIVE AARON PENA JUNE 1, 2012 *****</p>	<p>1 2 APPEARANCES 3 FOR THE PLAINTIFF, STATE OF TEXAS: 4 John M. Hughes BARTLT BECK HERMAN PALENCHAR & SCOTT, LLP 5 1899 Wynkoop Street Suite 800 6 Denver, CO 80202 (303) 592-3113 john.hughes@bartlit-beck.com 7 Brooke Paup 8 OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548 9 10 209 West 14th Street 11 8th Floor Austin, TX 78701 12 (512) 936-1307 patrick.sweeten@texasattorneygeneral.gov 13 14 FOR THE DEFENDANT, HOLDER, ET AL: 15 Daniel Freeman Risa Berkower 16 U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW 17 NWB - Room 7202 Washington, DC 20530 18 (202) 305-7766 daniel.freeman@usdoj.gov 19 20 FOR THE DEFENDANT-INTERVENOR TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: 21 Ezra D. Rosenberg 22 DECHERT, LLP Suite 500 23 902 Carnegie Center Princeton, NJ 08540-6531 24 (609) 955-3200 ezra.rosenberg@dechert.com 25</p>
2	4
<p>1 ORAL DEPOSITION OF REPRESENTATIVE AARON PENA 2 produced as a witness at the instance of the Defendant, 3 was duly sworn, was taken in the above-styled and 4 numbered cause on the JUNE 1, 2012, from 9:45 a.m. to 5 4:06 p.m., before Chris Carpenter, CSR, in and for the 6 State of Texas, reported by machine shorthand, at the 7 offices of DECHERT, LLP, 300 W. 6th Street, Suite 2010, 8 Austin, Texas 78701, pursuant to the Federal Rules of 9 Civil Procedure and the provisions stated on the record 10 or attached hereto. 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 FOR THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: 2 Jose Garza LAW OFFICE OF JOSE GARZA 3 7414 Robin Rest Drive San Antonio, TX 787209 4 (210) 392-2856 garzpalm@aol.com 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: center;">6</p> <p>THE REPORTER: Time on the record 9:45.</p> <p>Could everybody here make announcements and your affiliations.</p> <p>MR. FREEMAN: Sure. My name is Dan Freeman on behalf of the Attorney General.</p> <p>MS. BERKOWER: Risa Berkower for the Attorney General.</p> <p>MR. GARZA: Jose Garza for the Mexican American Legislative Caucus.</p> <p>MS. PAUP: Brooke Paup for the State.</p> <p>MR. HUGHES: John Hughes for the State of Texas.</p> <p>MR. FREEMAN: And this is the deposition of Representative Aaron Pena in matter of Texas v. Holder, U.S. District Court for the District of Columbia, Docket Number 1:12-CV-128.</p> <p>REPRESENTATIVE AARON PENA, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. FREEMAN:</p> <p>Q. We have introduced ourselves. I want to say congratulations on being in the New York Times this morning, Representative.</p>	<p style="text-align: center;">8</p> <p>until we have finished up with the question we're going through, that's great. There's water and coffee to your right.</p> <p>If you want to talk your attorney, again, that's also fine. But if there's a question pending or if you're in the middle of an answer, I'll ask you to finish that question up first. Is that okay?</p> <p>A. Yes.</p> <p>Q. At various points, your attorney may object to a question I ask. Many of these objections can be resolved by the court at a later time. Therefore, unless your attorney specifically directs you not to answer, I'll ask you to please respond to my question fully. Is that okay?</p> <p>A. Yes.</p> <p>Q. Sometimes your attorney may instruct you not to rely on certain information when answering a question. If you follow that instruction, please answer accordingly by preceding your answer by saying, "Based on that instruction." And if you follow that instruction and cannot, as a result, answer at all, please tell me, "I cannot answer based on any attorney's instruction." That way, we'll sort of understand the basis for your answer or nonanswer. Is that okay?</p> <p>A. I will try to remember what you have suggested.</p>																																																				

<p style="text-align: center;">33</p> <p>1 committee that oversees the Department of Public Safety. 2 Q. Okay. 3 A. And I was in his office one day looking at 4 videos. He was kind of a fun guy to be around, and he 5 said, "Check out my driver's license. It's got a really 6 cool number," like, as an example, 007. And I said, 7 "Wow, how did you do that?" He says, "Well, I'm the 8 chairman of the committee." And I said, "Could I have 9 one like that?" And he said, "Sure. What number do you 10 want?" And I said, "Well, how about my birthday?" He 11 said, "Okay, I'll call over there and see if we can get 12 you one with your birthday on it." And so my driver's 13 license number is like my month and my year of birth. 14 Q. Did you -- did you go to a specific office, or 15 was it done for you? 16 A. It was done for me. 17 Q. So how did they get your picture? 18 A. I don't know. 19 Q. Do you know the -- when was the last time that 20 you went to a driver's license office to renew your 21 driver's license? 22 A. I don't remember. 23 Q. Do you know where the closest driver's license 24 office is to your home in Edinburg? 25 A. Sure.</p>	<p style="text-align: center;">35</p> <p>1 Q. My BlackBerry is right in front of me. 2 A. Right. 3 Q. So you don't remember the last time you went to 4 that office, though, correct? 5 A. To the driver's license? 6 Q. Uh-huh? 7 A. I went recently, because my daughter needed her 8 driver's license. 9 Q. Oh, okay. And what time of day did you go with 10 your daughter? 11 A. Late in the afternoon. 12 Q. Okay. Do you know how long you waited in line? 13 A. Hmm. 20 minutes, 15 minutes. 14 Q. And that was in Edinburg? 15 A. That was in McAllen. 16 Q. Sorry. McAllen. And so you drove to McAllen, 17 correct? 18 A. Yes. 19 Q. Okay. Do you know what documents you brought 20 with you to help your daughter renew her driver's 21 license or to get her driver's license? 22 A. No, I don't recall. 23 Q. Do you know what documents she needed to have? 24 A. I don't recall. 25 Q. Do you know if there are some driver's license</p>
<p style="text-align: center;">34</p> <p>1 Q. Where is it? 2 A. Well, when I used to go, it was on the 3 northeast side of town. There is also one in McAllen 4 that is in the center part of McAllen. 5 Q. So about how far is the northeast end of town 6 from where you live? 7 A. Four miles. 8 Q. Okay. Do you know what the hours of operation 9 of that office in Edinburg are? 10 A. I assume they're regular business hours. 11 Q. And if you were to go, how would you get there? 12 A. I could walk, but I would probably drive. 13 Q. It's four miles. It's a pretty healthy walk, 14 right? 15 A. Yeah. I used to be walker until I tore my 16 ACL. I used to like walking. 17 Q. Sorry about that. 18 A. I walked here. 19 Q. And during business hours, when you could go to 20 the driver's license office, you're usually at work, 21 right? 22 A. I'm an attorney, and so my hours are flexible. 23 Q. Okay. 24 A. But I'm always an attorney. I don't know how 25 to say that. You understand. You're an attorney.</p>	<p style="text-align: center;">36</p> <p>1 offices that have been closed because of a lack of 2 funding? 3 A. I would have to assume or make a guess. So 4 I'll just say I don't know. 5 Q. Okay. Do you know if any drivers' licenses 6 offices now have reduced hours because of a lack of 7 funding? 8 A. I do not know that. 9 Q. Do you know if there are drivers' licenses 10 offices in every county in Texas? 11 A. I can't give you a specific -- I can't give you 12 a clear answer, so I just will say I don't know. 13 Q. Okay. Can we try the unclear answer? 14 A. You want me to guess? 15 Q. Well, if it's a guess, don't guess. 16 MR. HUGHES: Don't guess. 17 Q. (By Mr. Freeman) Don't guess. But if you had 18 some kind of partial answer. 19 A. I mean, I could -- I could make assumptions. 20 MR. HUGHES: Let's not guess. 21 Q. (By Mr. Freeman) No. That's not what we're 22 here for. I just need to find out what do you know. 23 A. Okay. 24 Q. So that's fine. 25 Are you aware of whether there's a</p>

<p style="text-align: center;">37</p> <p>1 particular driver's license office in Austin that is 2 used by legislators and staff?</p> <p>3 A. No.</p> <p>4 Q. Okay.</p> <p>5 A. No. I've never -- really? No.</p> <p>6 Q. Okay. Now, you've previously said, in an 7 interview with Governing magazine, that it's not an 8 inconvenience to get an ID; is that correct?</p> <p>9 A. Is that what I said? Let me just say, because 10 I don't -- I don't want to -- that -- that is a correct 11 general statement, okay? But I will say that it is a 12 very minor hurdle.</p> <p>13 Q. Okay. Do you know if there are longer delays 14 in some offices, in larger cities than McAllen, than the 15 delay you had with your daughter?</p> <p>16 A. I don't know. The only experience I had was 17 when I was in college, and I went in to get a driver's 18 license in Austin, and it was basically the same as it 19 is in McAllen.</p> <p>20 Q. Okay. Do you have a copy of your birth 21 certificate?</p> <p>22 A. Not with me, but I have one at home.</p> <p>23 Q. Yeah. You don't carry it around.</p> <p>24 Do you know where you'd get a copy if you 25 lost yours?</p>	<p style="text-align: center;">39</p> <p>1 weeks? Matter of days?</p> <p>2 A. I have a visual of myself standing in line and 3 asking for the documents. When I was physically 4 present, it wasn't that long.</p> <p>5 Q. Oh, okay.</p> <p>6 A. When I was physically present. Now, I don't 7 know if I called in, you know. But when I was 8 physically present, it wasn't that long.</p> <p>9 Q. Okay. How much does gas go for Hidalgo County 10 these days?</p> <p>11 A. It fluctuates. Recently, it's gone down. I 12 can make a guesstimate. 3.60.</p> <p>13 Q. Okay. Approximately 3.60?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. When was the last time you voted?</p> <p>16 A. I vote in every election. It's a habit I've 17 started since college. I make it a ritual. I'm very 18 proud of the fact that I don't miss elections.</p> <p>19 Q. Did you vote yesterday? Tuesday. And I 20 apologize.</p> <p>21 A. I voted the first day of early voting.</p> <p>22 Q. Okay. But did you vote in person?</p> <p>23 A. Yes.</p> <p>24 Q. Sorry about the confusion about the dates.</p> <p>25 A. That's okay. I said, "Oh, my God, I missed</p>
<p style="text-align: center;">38</p> <p>1 A. I'd either go to my city hall or I'd come to 2 Austin, and I'd get it from the department -- it's a 3 building that's off of Guadalupe, and it's the north 4 side of downtown.</p> <p>5 Q. Do you know how much it would cost to get a 6 copy?</p> <p>7 A. No. I could take a guess.</p> <p>8 Q. If you don't know, you don't know.</p> <p>9 Do you know how long it would take to get 10 a copy?</p> <p>11 A. Again, I'd take a guess. I'm sure it varies. 12 I don't know.</p> <p>13 Q. How would you go about finding the answers to 14 those questions if you needed to know them?</p> <p>15 A. Well, okay. Like I said, you know, I could 16 make assumptions. I could go to my downtown, you know, 17 city, and I could stand in line and I'd ask.</p> <p>18 Q. Okay.</p> <p>19 A. And my guess is, they'd either say we have it 20 or we don't have it or to come, or they'd say, "Here it 21 is."</p> <p>22 Q. Okay.</p> <p>23 A. You know. Here in Austin, I've done it before, 24 because I've to get passports, and it's not that long.</p> <p>25 Q. Okay. Any idea, not that long, matter of</p>	<p style="text-align: center;">40</p> <p>1 one."</p> <p>2 Q. How far is the early voting location from your 3 home?</p> <p>4 A. It's in my downtown. All right. Let me -- let 5 me -- give me a moment.</p> <p>6 Q. Sure.</p> <p>7 A. Of it's in my downtown.</p> <p>8 Q. So about how many miles is that from your 9 house?</p> <p>10 A. Five, six.</p> <p>11 Q. Okay. And do you know where your precinct is 12 if you would have voted on election day?</p> <p>13 A. Yes. 14.</p> <p>14 Q. And do you know how close that is to your 15 house?</p> <p>16 A. Just a couple of blocks away.</p> <p>17 Q. Okay. So closer than your driver's license 18 office?</p> <p>19 A. Yes. About halfway. About a third.</p> <p>20 Q. What ID are you carrying today?</p> <p>21 A. I have a driver's license. I have a concealed 22 handgun license. Yes, that's what I have with me.</p> <p>23 Q. I'll make sure to keep my questions very 24 friendly.</p> <p>25 A. (Laughing).</p>

<p style="text-align: center;">41</p> <p>1 Q. And which of those IDs have photo IDs? 2 A. This is Texas, okay? It's just Texas, don't be 3 intimidated. Go ahead. I'm sorry.</p> <p>4 Q. Which of those IDs have photos? 5 A. Both of them.</p> <p>6 Q. Okay. And do either of them establish 7 citizenship? 8 A. Hmm. I will say to get your Texas driver's 9 license, you have to go through a process that -- that I 10 believe proves citizenship.</p> <p>11 Q. Can a long-term permanent resident get a Texas 12 driver's license? 13 A. I can't answer the question.</p> <p>14 Q. And do you know if a green card holder who 15 lives in Texas and is waiting the amount of time that 16 they need to get citizenship, can they get a Texas 17 driver's license?</p> <p>18 A. I can take a guess, but I don't have a clear 19 answer, so... 20 Q. So you're not certain if a Texas driver's 21 license establishes citizenship; is that correct? 22 A. I will just say more likely than not that it 23 does establish citizenship, but there may be an 24 exception that I'm unaware of.</p> <p>25 Q. Is there any marker on your driver's license</p>	<p style="text-align: center;">43</p> <p>1 Q. Okay. If you don't know, you don't know. 2 And do you have a passport? 3 A. Yes.</p> <p>4 Q. Do you have any form of military ID? 5 A. Yes.</p> <p>6 Q. And a passport does establish citizenship, 7 correct? 8 A. Yes. 9 Q. Does military ID? 10 A. I've never -- I don't recall anybody asking me 11 that question. 12 Q. When did you serve in the military? 13 A. I'm a member of the Texas State Guard, which is 14 a state militia.</p> <p>15 Q. What other types of ID are produced by the 16 state of Texas; are you aware? 17 A. I've heard that there is an ID you can get that 18 simply identifies who you are. 19 Q. So a nondriver ID? 20 A. Right. 21 Q. Anything else? 22 A. Hmm. Not that I'm aware of. 23 Q. Do you have a legislator ID? 24 A. Yes. 25 Q. Does it have your picture on it?</p>
<p style="text-align: center;">42</p> <p>1 that says that you're a citizen? 2 A. Not on my driver's license. 3 Q. Okay. And have you ever seen a Texas driver's 4 license that indicates that someone is a noncitizen? 5 A. I have heard that there is something like 6 that. Somebody told me that. But I don't know with 7 certainty. 8 Q. Okay. But your license to carry does not 9 indicate citizenship either; is that correct? 10 A. No, but -- 11 Q. You can check, if you'd like. 12 A. Yeah. I don't think so. I don't look at it 13 that much. No, I don't see it. 14 Q. Okay. And can I just ask: If someone is a 15 refugee from another country and lives in Texas now and 16 they're, you know, under asylum status, they wouldn't be 17 able to have driver's license from that other country; 18 is that correct? 19 A. I can't answer with certainty. 20 Q. But there's no -- but they'd still be able to 21 get a driver's license and drive? 22 A. You mean, if they have formal asylum? 23 Q. Yes. 24 A. I can't answer with certainty, but it sounds 25 reasonable. I'm guessing. I don't know.</p>	<p style="text-align: center;">44</p> <p>1 A. Yes. 2 Q. So does that establish who you are? 3 A. These are informal internal documents used by 4 the Capitol for security purposes. I think there is one 5 of them that's issued by the State of Texas, DPS. But 6 quite frankly, I think they're internal documents used 7 for management of personnel. 8 Q. But if you were to show that to someone, it 9 would have your name and your photo, correct? 10 A. Yes. 11 Q. And so it would -- it would establish you are 12 Aaron Pena, correct? 13 A. No, I assume they could be -- well, the 14 security levels are probably not as high. Because I 15 simply go into an office and ask for my photo to be 16 taken. I mean, they have to confirm who I am, but they 17 don't -- there's not a whole lot of security protocols, 18 I'm sure. I can't answer with certainty. 19 Q. Do you have that legislator ID on you now? 20 A. I can check. I probably don't, because it's 21 not a -- you know, the wallet gets real thick and it's 22 not an essential. Okay. Let me say that this is a 23 security magnetic card that allows access. It's one of 24 the many IDs that they give us, okay? 25 Q. And it has your photo on it?</p>

<p style="text-align: center;">45</p> <p>1 A. Yes, it does. 2 Q. And your name? 3 A. Yes, it does. 4 Q. And an expiration date? 5 A. No. Well, I guess by saying 82nd Legislative 6 Session, that's somewhat of an expiration. 7 Q. So as of January 2011, it will no longer be 8 valid? 9 A. I mean, my terms goes -- yes, that's correct. 10 Q. Okay. So that establishes your identity, 11 doesn't it? 12 A. It doesn't have the security protocols that -- 13 that I'm sure the State of Texas requires. I know that 14 we have -- we follow some of the ID requirements out of 15 the federal government. So I'm not sure what those are. 16 Q. Does your license to carry have more security 17 features on it? 18 A. Yes. 19 Q. And what are those features? 20 A. Well, if you look at it, you have to turn it 21 sideways, but you can see a -- and I don't know the 22 term. It's kind of a ink that is apparent when you turn 23 it sideways. And then the same with the star there. Do 24 you see that? It's hard to put in words. But it is a 25 security, and then it has magnetic strip as well</p>	<p style="text-align: center;">47</p> <p>1 Q. And -- 2 A. But it's harder, you know? 3 Q. And are there -- you mentioned the particular 4 security features of a Texas concealed handgun license. 5 Are there similar features on a Texas driver license? 6 A. Yes. 7 Q. And is there any equipment that's needed to 8 utilize any of those security features, like a black 9 light or a barcode reader? 10 A. Yes. I would assume yes, because I've noted 11 that when I go to the airport, they look at it with a 12 light and they turn it. So I assume there's some 13 security feature they're looking for. 14 Q. Do they have those blacks lights and barcode 15 readers at polling places? 16 A. Hmm. I don't think so. They could have a 17 light, but I don't think they have the training or have 18 knowledge of the security features. 19 Q. And so for purposes the polling place, those 20 security features aren't really going to be helpful, 21 will they? 22 A. I don't understand your question. 23 Q. For a poll worker who doesn't have the black 24 light, who doesn't have the scanning machine, and you 25 said doesn't have the training, the difference between</p>
<p style="text-align: center;">46</p> <p>1 containing information. 2 Q. Are those all the security features? 3 A. I'm not aware of what additional security 4 features are in it. 5 Q. Does the State of Texas produce any other 6 employee -- 7 A. Oh, I'm sorry. There's also an embossed number 8 here. 9 Q. Okay. Does the State of Texas produce any 10 other employee IDs? For example, employees of the 11 office of the Attorney General or the -- 12 A. Sure. I'm sure there's internal management 13 cards that they issue. 14 Q. Do Texas public universities produce student 15 IDs? 16 A. I had one when I was at school. 17 Q. Did it have a photo? 18 A. I can't recall, but I would assume. 19 Q. Do those documents establish an individual's 20 identity? 21 A. Yes. The levels of security, though, are very 22 weak. I mean, they could be forged. 23 Q. Is it your position that a driver's license 24 cannot be forged? 25 A. No. I assume everything could be forged.</p>	<p style="text-align: center;">48</p> <p>1 your legislator ID and a Texas driver license, it's not 2 really going to make a difference, will it? 3 A. Sure. I mean, you can feel more comfortable 4 that the Texas driver's license is who you are than a 5 university ID. 6 Q. And what's your basis for that? 7 A. Oh, well, you know, I am aware that we follow 8 certain protocols that the federal government -- I 9 forget what it's called. I forget what the law is. But 10 there are certain protocols that the government is 11 imposing on the states. 12 Q. Uh-huh. 13 A. Whatever that law is, I'm aware of it, because 14 we've had to deal with it in the Homeland Security 15 Committee. 16 Q. Is that the Real ID Act? 17 A. That's very good. Very good. 18 Q. I'm just trying to help. 19 A. And then I am aware of these new features that 20 have been added to the drivers' licenses. They were not 21 there before. These are hard to duplicate. I assume 22 anything could be duplicated, but it makes it very 23 hard. The magnetic strip, I'm not sure what's contained 24 on it, but I know that it's used. 25 Q. Is it -- have you ever seen a Texas citizen --</p>

<p style="text-align: center;">49</p> <p>1 or not a Texas citizenship certificate -- excuse me -- a 2 citizenship certificate used as a form of ID with a 3 photo?</p> <p>4 A. You mean a United States citizenship?</p> <p>5 Q. Uh-huh.</p> <p>6 A. No, I've never seen one. Where can you get one 7 of those?</p> <p>8 Q. And do you know if those citizenship 9 certificates have similar security features to what 10 you've described?</p> <p>11 A. I've never seen one. I don't know.</p> <p>12 Q. Okay.</p> <p>13 A. You've caused me to want to have one.</p> <p>14 Q. I think it may be for new citizens.</p> <p>15 A. Oh, okay.</p> <p>16 Q. But I'm not sure.</p> <p>17 What's the drinking age in Texas?</p> <p>18 A. 21.</p> <p>19 Q. And are you aware of whether anyone under the 20 age of 21 has ever created a counterfeit driver license 21 in Texas?</p> <p>22 A. In the old days, I'd say yes. Nowadays, 23 people -- with the security features, it's very hard to 24 make a credible one.</p> <p>25 Q. And what's your basis for saying that it's hard</p>	<p style="text-align: center;">51</p> <p>1 polling places to have those black lights that we 2 discussed to test the validity of the Texas driver's 3 license?</p> <p>4 A. You know, I don't remember that being 5 discussed.</p> <p>6 Q. Where do you get information about elections? 7 What sources do you use?</p> <p>8 A. I am a consumer, a heavy consumer of all 9 information on the Internet, in the newspapers. I 10 listen to -- I'm a news junkie. When I'm in the 11 Capitol, there's all kinds of information we're 12 bombarded with.</p> <p>13 Q. Any particular newspapers or websites that you 14 focus on?</p> <p>15 A. The New York Times. Well, look. Okay. 16 Everything.</p> <p>17 Q. Okay.</p> <p>18 A. In this country and in other countries, even 19 when the language is difficult for me to read.</p> <p>20 Q. Okay. For Texas news, what are your top two?</p> <p>21 A. Hmm. Dallas Morning News, and either the Texas 22 Tribune or Harvey Kronberg's Quorum Report, which is an 23 aggregation of news.</p> <p>24 Q. Do you read the McAllen Monitor?</p> <p>25 A. Oh, yeah, religiously. Listen, I read nearly</p>
<p style="text-align: center;">50</p> <p>1 to create a credible one?</p> <p>2 A. Well, I've heard them talk about these security 3 features on the driver's license and how they make it 4 more difficult for people to create them.</p> <p>5 Q. But do you think that -- do you think that no 6 one is creating fake Texas IDs to get alcohol anymore?</p> <p>7 A. I don't have any personal knowledge. I just 8 remember as a kid, you know, people would try to create 9 them. But we didn't have a whole lot of safety features 10 at the ID.</p> <p>11 Q. Did it work?</p> <p>12 A. Oh, I didn't do it. I just had friends who 13 said they did it.</p> <p>14 Q. Are you aware of how many convictions for the 15 use of fake IDs have been obtained in the state of Texas 16 in the last 20 years?</p> <p>17 A. No, I'm not.</p> <p>18 Q. Are you aware of how many fake IDs have been 19 seized at bars and clubs, et cetera?</p> <p>20 A. No, I'm not.</p> <p>21 Q. Do you know how many investigated incidents 22 there have been related to the use of fake IDs in Texas 23 in the last 20 years?</p> <p>24 A. No.</p> <p>25 Q. Do you have if SB 14 provides any financing for</p>	<p style="text-align: center;">52</p> <p>1 every paper that I can get my hands on.</p> <p>2 Q. Okay. Do you watch any TV news?</p> <p>3 A. Yes.</p> <p>4 Q. What channels do you watch?</p> <p>5 A. MSNBC, Fox News, CNN, Univision, Telemundo. If 6 there is a news outlet and it's available to me, I watch 7 it.</p> <p>8 Q. Okay. Giving your remote a workout.</p> <p>9 Do you listen to any talk radio?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What do you listen to?</p> <p>12 A. Well, if something is pinpointed on the 13 Internet as something to listen to, I will listen to it.</p> <p>14 Q. Okay.</p> <p>15 A. Of political interest.</p> <p>16 Q. Uh-huh.</p> <p>17 A. I listen to the Houston Talk Radio, 92 FM. I 18 listen to KTRH out of Houston. I listen to the 710 talk 19 radio in McAllen. I listen to KTRH, 1200 in 20 San Antonio. 590 in San Antonio. 550 -- no, not 550. 21 I listen to Internet radio.</p> <p>22 Q. Okay.</p> <p>23 A. If it is on the air, and it has to do with 24 politics or culturally-interesting subjects, I will 25 listen to it.</p>

<p style="text-align: center;">61</p> <p>1 A. Okay. What I'm given each day.</p> <p>2 Q. Uh-huh.</p> <p>3 A. The legislative analysis, all the stuff that</p> <p>4 people give us from the outside, outside of government,</p> <p>5 interest groups, what not that they want us to read,</p> <p>6 it's usually put in a folder and I carry it to the</p> <p>7 floor. And then on the floor after the day is up, that</p> <p>8 material is usually not important for any other day. So</p> <p>9 I'll either put it under my desk where it will sit until</p> <p>10 it ages to a point to where, you know -- I could have</p> <p>11 access to it, but it ages to the point where I just need</p> <p>12 to throw it away. Or I'll hand it to my staff and say</p> <p>13 "Here, figure out what you're going to do with this</p> <p>14 stuff," and it probably is trashed. Because unless it's</p> <p>15 a long-running issue, I just see no reason to keep all</p> <p>16 that paper piling up. We have a blue trash can in the</p> <p>17 corner, everything is put in the recycle, and so I don't</p> <p>18 know the answer with certainty.</p> <p>19 Q. Okay. You said your chiefs of staff. Who is</p> <p>20 that besides Mari Deleon?</p> <p>21 A. Mari is the one from here. Although my former</p> <p>22 chief of staff from here moved to the Valley, and so he</p> <p>23 maintains the title for the Valley. He's a more senior</p> <p>24 member than Mari Deleon. So --</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">63</p> <p>1 caucus that where we gather information, and it is you</p> <p>2 read it and you get rid of it.</p> <p>3 Q. With regard to those policy issues that earlier</p> <p>4 in your career you kept things around, what were those</p> <p>5 issues? Do you remember?</p> <p>6 A. I think the medical school in Harlingen, the</p> <p>7 drug treatment center that we tried to achieve. Some of</p> <p>8 the airport -- the Edinburg airport issues.</p> <p>9 Q. Okay. So was voter ID one of those issues?</p> <p>10 A. No. I came into the session knowing how I was</p> <p>11 going to vote. Absent some oppressive, overly</p> <p>12 oppressive requirements, you know, I knew how I was</p> <p>13 going to vote.</p> <p>14 Q. Do you maintain files on your X or Y drive</p> <p>15 concerning particular legislation?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. How did you know how you were going to vote or</p> <p>18 voter ID coming into the session?</p> <p>19 MR. HUGHES: I'm going to instruct on</p> <p>20 legislative privilege, and not to reveal thoughts,</p> <p>21 mental impressions, opinions about legislation,</p> <p>22 including voter ID, and don't reveal communications that</p> <p>23 you've had with legislators, legislative staff, any</p> <p>24 state agency, legislative council or constituents</p> <p>25 concerning the same.</p>
<p style="text-align: center;">62</p> <p>1 A. -- he occasionally exerts his authority by</p> <p>2 saying "Let's do things this way."</p> <p>3 Q. And that's Orlando?</p> <p>4 A. Orlando.</p> <p>5 Q. Okay. And so you don't -- you're not aware of</p> <p>6 any retention policy related to documents for your</p> <p>7 office?</p> <p>8 A. I don't like to see a lot of paper in my</p> <p>9 office. I don't like to see file cabinets. There's</p> <p>10 just no purpose for it. Information -- we're bombarded</p> <p>11 with information, and if you don't get rid of it, it's</p> <p>12 going to just consume you. So we get rid of it. And I</p> <p>13 don't want paper sitting around. If I need information</p> <p>14 or I need to have the information one more time, people</p> <p>15 are glad to give it to me. So --</p> <p>16 Q. Okay. Now, you had said you do maintain files</p> <p>17 on some long-running issues. What are some of those</p> <p>18 issues?</p> <p>19 A. We would keep clippings from the Valley,</p> <p>20 clippings where -- where we appeared.</p> <p>21 Q. Uh-huh.</p> <p>22 A. When I was in early in my career, I would keep</p> <p>23 a folder on subjects, you know, I thought I could read</p> <p>24 everything. But now, it's just -- I know where to get</p> <p>25 my information. There are all kinds of channels like</p>	<p style="text-align: center;">64</p> <p>1 MR. FREEMAN: Mr. Hughes, with regard to</p> <p>2 constituents, I think it's pretty clear from the court's</p> <p>3 order concerning the Lieutenant Governor, that</p> <p>4 constituent communications are not privileged, and the</p> <p>5 responses to those communications are public. Can we</p> <p>6 agree on that?</p> <p>7 MR. HUGHES: One moment.</p> <p>8 MR. FREEMAN: The May 28th order, if</p> <p>9 that's helpful.</p> <p>10 MR. HUGHES: What part of the order are</p> <p>11 you talking about?</p> <p>12 MR. FREEMAN: It's the very end of the</p> <p>13 order.</p> <p>14 MR. HUGHES: Yeah. I'll revise my</p> <p>15 instruction. Again, don't offer testimony concerning</p> <p>16 your thoughts, mental impressions, opinions about</p> <p>17 legislation, including Senate Bill 14, and don't reveal</p> <p>18 communications you've had with legislators, legislative</p> <p>19 staff or any state agency concerning the same.</p> <p>20 A. Okay. And you said that I would not be -- that</p> <p>21 outside that privilege was communications with --</p> <p>22 Q. Constituents?</p> <p>23 A. Constituents.</p> <p>24 Q. We have some further disagreements with your</p> <p>25 counsel, but I just thought that was one that was</p>

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1 relatively --

2 MR. HUGHES: For the record, I think the
 3 communications with constituents is already part of the
 4 legislative transcript regarding Representative Pena's
 5 testimony on the floor so it's out there either way.

6 MR. FREEMAN: Sure. Sure.

7 Q. (By Mr. Freeman) I just wanted you to explain
 8 the statement --

9 A. I don't have any specific communications that I
 10 can identify.

11 Q. Okay.

12 A. But I can tell you that the communications that
 13 I got from constituents were generally -- there's too
 14 much corruption here where we live. There was too much
 15 electoral corruption, especially in the Delta community,
 16 which is a poor farming community where my family is
 17 from. It's adjacent to my home base which is Edinburg.
 18 And in the La Joya-Sullivan City area and in the
 19 outskirts of Edinburg, that electoral corruption had
 20 gotten really bad and had reached -- there was a certain
 21 amount that we all kind of know exists, and we kind
 22 of -- like a fly that you just want it to go away but it
 23 doesn't go away. But it had reached the point where
 24 even the organizations that were -- that had encouraged
 25 that sort of behavior were stepping forward and saying

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1 Q. Well, I'm asking.

2 A. Well, you know, I sometimes I'd have my card,
 3 my voter card, and I hand it to them. But I live in
 4 such a small town, everybody knows who I am, so they
 5 just say, "Oh, Mr. Pena, come on in." But I usually
 6 give them the card so they can stamp it. But I -- I'm
 7 the sort of the person that hands an ID every time I
 8 vote.

9 Q. But they -- you have to under Texas law show
 10 that voter registration card or some alternative form of
 11 ID in order to vote in person, correct?

12 A. Okay. I'll accept what you say.

13 Q. But you don't need to show ID similarly to vote
 14 by mail, right?

15 A. I don't think so.

16 Q. And so when people were saying that they wanted
 17 you to deal with corruption and to deal with that fly
 18 that you mentioned before, were they talking about --

19 A. It was greater than a fly. The fly was the
 20 standard operating procedure, but it had reached
 21 proportions that they just said it's got to stop. It's
 22 getting out of hand.

23 Q. A swarm of flies?

24 A. Okay.

25 Q. Were they talking about in-person voting, or

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1 "It's gotten too far. We've got to put a stop to it."
 2 Specifically, I remember the BEE Club, the
 3 Better Edcouch-Elsa community organization, and the TACO
 4 Club. The Delta area community organization had come to
 5 me wanting to stop the corruption, the voter
 6 corruption. And then -- okay. That was a constituent
 7 -- those were constituent communications.

8 Then also from many of the same people,
 9 there was a sense of that voter ID is a good thing. The
 10 only time I had somebody say it was a bad thing were
 11 from activists, activists from the Democratic ranks. I
 12 heard it in speeches and what not.

13 Q. And when they said voter ID is a good thing,
 14 did they explain what they meant by that?

15 A. They wanted -- they wanted somebody to do
 16 something. They just wanted -- it was getting worse and
 17 worse, and they wanted somebody to do something.

18 Q. But doesn't Texas already have some kind of law
 19 that requires some form of identification prior to
 20 voting in person that requires you to establish your
 21 identity?

22 A. Okay. Ask your question again.

23 Q. Doesn't Texas already have a law that requires
 24 you to establish your identity when you vote in person?

25 A. And that law is?

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1 were they talking about mail-in ballots?

2 A. They were talking about all forms of voter
 3 fraud. That's my sense.

4 Q. Were they talking about voter impersonation?

5 A. Yeah. I would assume that's part of it. But
 6 you're asking me to assume what other people were
 7 telling me, but it was general statements like "This has
 8 got to stop. This is bad. Things are getting out of
 9 hand."

10 Q. Did anyone ever specifically say this voter
 11 impersonation has got to stop? People are coming in and
 12 --

13 A. Nobody talks like that. We don't use those
 14 words.

15 Q. Did they ever say "It's got to stop. People
 16 are coming in and showing a registration card saying
 17 they're someone else and voting for someone else"?

18 A. I've heard that from the McAllen community but
 19 not from the Delta community.

20 Q. Is there ever any -- so you came into this
 21 session knowing that you were going to vote specifically
 22 in favor of voter ID unless they were overly oppressive
 23 requirements. That was your testimony earlier, right?

24 A. Yes.

25 Q. And so did anyone -- did you make any promises

<p style="text-align: center;">73</p> <p>1 figure out what the proper protocol is from hence 2 forward.</p> <p>3 Q. Okay. And so you are unable to answer with 4 regard to any promises that were made by you or to you 5 because of the legislative privilege, is that your 6 testimony?</p> <p>7 MR. HUGHES: Same instruction.</p> <p>8 A. Am I able to answer? Okay. I'm going to 9 answer.</p> <p>10 MR. HUGHES: Can you repeat the question?</p> <p>11 MR. FREEMAN: I was just asking if he's 12 unable to answer concerning any promises that were made 13 by him or to him concerning legislative -- or concerning 14 voter ID because of his privilege assertion.</p> <p>15 MR. HUGHES: Same instruction.</p> <p>16 A. I'm physically able to answer but because of 17 the instruction, I'm going to follow the advice of 18 counsel.</p> <p>19 Q. (By Mr. Freeman) Now, you had said before that 20 you were going to support voter ID unless there were any 21 overly oppressive requirements.</p> <p>22 A. Yes.</p> <p>23 Q. What did you mean by that?</p> <p>24 A. Well, I can -- I can -- I was waiting to see 25 what somebody was going to suggest, but requiring</p>	<p style="text-align: center;">75</p> <p>1 complies with the Texas constitution?</p> <p>2 MR. HUGHES: I'm going to offer the same 3 instruction on legislative privilege, not to answer to 4 the extent that calls for revealing communications with 5 other legislators, legislative staff, any state agency, 6 including the Texas Legislative Council, or to the 7 extent it calls for you to reveal your thoughts, mental 8 impressions or opinions about legislation.</p> <p>9 A. I can use my own training as a lawyer.</p> <p>10 Q. (By Mr. Freeman) Anything else?</p> <p>11 A. The adversarial process will ferret things out.</p> <p>12 Q. So is it your understanding that sometimes 13 things make it out of the legislature that don't comply 14 with the Texas constitution, but people fight it out in 15 litigation, and that's part of the process?</p> <p>16 MR. HUGHES: Same instruction.</p> <p>17 A. No. That's not what I meant when I said that.</p> <p>18 Q. Okay.</p> <p>19 A. What I meant was --</p> <p>20 Q. Please clarify.</p> <p>21 A. There's a -- there are multiple positions taken 22 on a bill, and the adversarial system will cause the 23 opposing side to raise the issue.</p> <p>24 Q. Okay.</p> <p>25 A. And but there are other controls involving</p>
<p style="text-align: center;">74</p> <p>1 multiple IDs, you know, that's an example, something 2 that I thought was overly oppressive.</p> <p>3 Q. Anything else?</p> <p>4 A. Well, you know, people are creative, and they 5 would have come up with something, but I wasn't going to 6 -- I wasn't going to allow something overly oppressive 7 to keep people from voting. This in my opinion is not 8 overly oppressive.</p> <p>9 Q. Okay. Do you believe that compliance with the 10 Texas constitution is an important consideration in the 11 law-making process?</p> <p>12 MR. HUGHES: And again, this is going to 13 get old. But I want to instruct you with respect to 14 legislative privilege, not to reveal thoughts, mental 15 impressions or opinions about legislation, including 16 Senate Bill 14. And to the extent this question calls 17 for testimony concerning your mental impressions, 18 opinions about Senate Bill 14, I instruct you not to 19 answer, to that extent only.</p> <p>20 A. Look, like any lawyer, the law should be 21 followed, unless you're attempting to make a challenge, 22 to extend the law, to change the law. The law should 23 always be followed.</p> <p>24 Q. (By Mr. Freeman) What steps do you take to 25 ensure that a bill you're working on or voting on</p>	<p style="text-align: center;">76</p> <p>1 lawyers and what not that are -- that are present.</p> <p>2 Q. I guess I'm more curious what's your process?</p> <p>3 You said you rely on your own training as a lawyer.</p> <p>4 Anything else?</p> <p>5 MR. HUGHES: Same instruction. Don't 6 answer to the extent it calls you to reveal 7 communications with other legislators, legislative 8 staff, or any state agency, including the Texas 9 Legislative Council.</p> <p>10 A. Yeah. I think I answered it with the previous 11 question.</p> <p>12 Q. (By Mr. Freeman) Okay. Do you believe 13 compliance with federal law is an important 14 consideration in the law-making process?</p> <p>15 A. Yeah. I'll give the same answer I gave to the 16 state law. We should always try to follow the law. And 17 absent an attempt to extend it or challenge it, that's 18 what you ought to do.</p> <p>19 Q. And do you believe compliance with the federal 20 Voting Rights Act is an important consideration in the 21 law-making process?</p> <p>22 MR. HUGHES: I'm going to continue to give 23 the same instruction to you, which is not to answer to 24 the extent that answer calls for you to reveal your 25 thoughts, mental impressions, opinions about</p>

<p style="text-align: center;">77</p> <p>1 legislation, including voter ID. 2 A. The same answers I gave before apply to this 3 one.</p> <p>4 Q. And was part of the purpose of SB 14 to 5 challenge the federal Voting Rights Act as you described 6 it previously?</p> <p>7 MR. HUGHES: Again, I'm going to instruct 8 you not to answer to the extent the answer calls for you 9 to reveal your thoughts, mental impressions, opinions 10 about legislation, including Senate Bill 14, and don't 11 reveal communications that you've had with legislators, 12 legislative staff, any state agency, including the Texas 13 Legislative Council.</p> <p>14 MR. FREEMAN: Mr. Hughes, two things: 15 First, I thought that I was under the impression that 16 you were going to try to limit speaking objections.</p> <p>17 MR. HUGHES: These aren't speaking 18 objections. These are asserting my legislative 19 privilege objection.</p> <p>20 MR. FREEMAN: It's a lengthy objection, 21 and we're trying to move this along for everyone's 22 benefit.</p> <p>23 Secondly, I think it's pretty clear under 24 the Jewish War Veterans' decision that information 25 relating to the overall purpose of a legislative act,</p>	<p style="text-align: center;">79</p> <p>1 don't want to be fighting this out all day. 2 (Recess taken from 11:33 a.m. to 3 11:38 a.m.)</p> <p>4 MR. FREEMAN: Would you read back the last 5 question? 6 (Requested portion read back by the court 7 reporter.)</p> <p>8 MR. HUGHES: I will -- my objection to 9 that is that you -- that you -- based on legislative 10 privilege, is that you may testify pursuant to the 11 court's order about the general purpose or the purpose 12 of the legislature as a whole in enacting Senate Bill 13 14, as opposed to the subjective intent of any 14 particular legislator. But you may not answer or reveal 15 communications that you had with the legislators, 16 legislative staff, members of any state agency, and so 17 forth.</p> <p>18 A. The purpose of the bill was to respond to the 19 desires of the community, which is reflected in what I 20 was told as I described to you. And the public polls 21 have shown overwhelming support, not only in the Anglo 22 community but the minority community, the Hispanic 23 community. Those polls were done by the University of 24 Texas and the Texas Tribune and have been done by 25 others. As to -- as to the intent from other</p>
<p style="text-align: center;">78</p> <p>1 rather than the individual motivations of the 2 legislators, is not covered by the privilege. And I 3 believe that when this issue was raised during the first 4 week of depositions, that the State of Texas conceded 5 that point and allowed us to pursue questioning 6 concerning the purpose of the bill.</p> <p>7 MR. HUGHES: You can ask about the 8 publicly stated purposes of the bill. You can't ask 9 about the mental impressions, deliberations, back-room 10 discussions that may or may not have occurred. That's 11 all covered by the privilege.</p> <p>12 MR. FREEMAN: I'm not asking about 13 individual motivation, but I am going to ask about 14 nonpublic purposes, which the purpose of the bill and 15 are covered by -- that are not covered by the 16 legislative privilege, regardless of whether someone got 17 up on the floor and said it.</p> <p>18 And I believe the State of Texas has 19 already agreed, and I hope we do not have to -- I mean 20 we got on the call or we got on the -- we sent out a 21 letter, I believe, with the state to the court and 22 resolved this issue. And if we have to take a break to 23 pull that up that letter, I'm happy to do so.</p> <p>24 Let's go off the record for a second and 25 we'll get that and see if we can resolve this, because I</p>	<p style="text-align: center;">80</p> <p>1 legislators, I can't speak for them. But that was my 2 intent.</p> <p>3 Q. (By Mr. Freeman) Okay. But in terms of the 4 purpose, not -- not the primary purpose, but whether a 5 purpose of the bill was to challenge the federal Voting 6 Rights Act, as you've described earlier that compliance 7 may or may not be an important purpose if you're trying 8 to push back against the law, was a purpose of the bill 9 to do that?</p> <p>10 MR. HUGHES: And again, the -- I'm 11 instructing you based on legislative privilege not to 12 answer other than an answer concerning the general 13 purpose of Senate Bill 14 and not the subjective or 14 individualized purpose of any legislator.</p> <p>15 A. The two purposes that I answered were the 16 purpose that I had.</p> <p>17 MR. FREEMAN: Mr. Hughes, I'll ask if the 18 question is not objectionable, that you not give that -- 19 give that instruction as you are interfering with the 20 examination by doing so. Thank you.</p> <p>21 Q. (By Mr. Freeman) What committees do you 22 currently sit on?</p> <p>23 A. Okay. Including subcommittees?</p> <p>24 Q. Just committees?</p> <p>25 A. Okay. Homeland Security. It may be called by</p>

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1 a different name, but that's essentially what we call
 2 it. The Technology Committee, which I chair. There are
 3 a couple of select committees. Oh, okay. One of them
 4 has to do with -- that the voter ID went through, and I
 5 think that was called the Committee on -- I forgot the
 6 name.

7 Q. Was it Voter Identification and Voter Fraud?

8 A. Very good.

9 Q. Were you on any other select committees?

10 A. Yes. But I can't recall their names.

11 Q. Okay. What is a select committee?

12 A. A select committee is one that where a
 13 committee is created. It's not a standing committee.
 14 It's created for a specific purpose. And the committee
 15 is hand-picked. Well, they're all -- I guess they're
 16 all hand-picked for a specific purpose.

17 Q. Okay. Are you aware of who picked the name,
 18 "Select Committee on Voter Identification and Voter
 19 Fraud?"

20 A. No.

21 Q. Are you aware of whether there have been any
 22 other select committees relating to voting or elections
 23 in the current or past legislatures in which you served?

24 A. I served on the Elections Committee.

25 Q. But were there any other select committees

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1 Q. What is this document?

2 A. It appears to be a document, a press release,
 3 announcing House committee assignments.

4 Q. Okay. And do you see on the second to the last
 5 page next to Select Committee on Voter
 6 Identification and Voter Fraud, it italics it says
 7 "fast-track"?

8 A. I do see that.

9 Q. Do you have any idea what that means?

10 A. I didn't put it there so I don't know.

11 Q. Have you ever seen any other committee
 12 designated as a fast-track committee?

13 A. No. And I've never -- other than this

14 document, I've never seen this committee referred to as
 15 a fast-track committee.

16 Q. Okay. How many bills did the Select Committee
 17 on Voter Identification and Voter Fraud consider?

18 A. You know, I know I had a bunch of bills in the
 19 committee. Hold on a second. They did go to
 20 elections. I think they was scattered all over the
 21 place. Yes. They went to elections. No. The answer
 22 is no, I can't give you a specific answer.

23 Q. Let's see if I can refresh your recollection.

24 This document is --

25 A. Oh, you know what? Forgive me. Forgive

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1 distinct from elections?

2 A. There may have been. I don't recall.

3 Q. Okay. Are you aware of any other select
 4 committees that relate directly to a standing committee
 5 in the way that Select Committee on Voter Identification
 6 and Voter Fraud relates directly to elections?

7 A. I was on the Emergency Management select
 8 committee. And that related to -- even though that was
 9 covered by the homeland -- was the Homeland Security
 10 Committee in existence? Okay. Yes, vaguely. Okay? I
 11 was on a select committee that had to do with the
 12 subject area of another committee.

13 Q. Okay.

14 A. Border Affairs and Homeland Security, and we
 15 handled emergency preparedness and homeland security.

16 Q. Okay.

17 A. And I was the chair of that committee.

18 Q. Okay. Was the Select Committee on Voter
 19 Identification and Voter Fraud a fast-track committee?

20 A. I can't answer that. I don't know.

21 Q. This exhibit has previously been marked as U.S.
 22 Exhibit 12. And do you see at the bottom of the page
 23 where key -- after key facts on committees -- well,
 24 first, have you seen this document before?

25 A. Never, not that I can recall.

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1 me. State it again, please, the question.

2 Q. Do you know how many bills the Select Committee
 3 on Voter Identification and Voter Fraud considered?

4 A. To answer your specific question, no, I don't,

5 but I recalled something else. But go ahead and ask

6 your next question.

7 Q. Well, let's just see if I can refresh your

8 recollection. This document has already been marked as
 9 Exhibit 13. First off, what did you recall in response

10 to my question?

11 A. I can recall that the committee chair for his
 12 own -- got frustrated, but I think it gets into the

13 legislative privilege.

14 Q. Okay.

15 A. And -- okay.

16 Q. Having now looked at this document, first, have
 17 you seen this document before?

18 A. Yes. Something -- if not, something similar.

19 Q. Okay. So you're able to recognize what this

20 document is?

21 A. Yeah.

22 Q. What is this document?

23 A. It's -- this document contains information that
 24 -- in a format that describes, that we regularly see,

25 that describes, you know, what the bill is, who the

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1 authors are, who the sponsors are, and the caption,
 2 which is a small blurb, describing the bill.
 3 Q. But this document also names the number of
 4 bills that were considered by the Voter Identification
 5 and Voter Fraud Committee, correct?
 6 A. Oh, I don't know if that's what that document
 7 refers to. If you tell me that's what it refers to, I
 8 have nothing to contradict what you're saying.
 9 Q. Well, do you see at the top of the committee --
 10 or at the top of the document it says, "Texas
 11 Legislature Bills by Committee." And so if you're happy
 12 to accept my representation, I can say that it is the
 13 Texas Legislature's website's report on --
 14 A. The number of bills.
 15 Q. -- the number of bills by committee.
 16 So having looked at this document, can you
 17 now let me know how many bills that select committee
 18 that you were on considered?
 19 A. Well, you say it's one, that this represents
 20 one, and I'll accept what you say, because I have
 21 nothing --
 22 Q. Do you recall any other documents that -- or
 23 excuse me, any other bills that you addressed
 24 specifically in the context of that committee?
 25 A. Not that I can recall.

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1 Q. Okay. Can you think of any other examples of a
 2 select committee that heard only one bill?
 3 A. I can't think of one.
 4 Q. Did you ask to be on the Select Committee on
 5 Voter Identification and Voter Fraud?
 6 A. No. I was placed there.
 7 Q. Did you have any conversations as a general
 8 matter concerning committee assignments prior to the
 9 assignments being made in the 82nd Legislature?
 10 MR. HUGHES: I want to instruct you on
 11 legislative privilege not to reveal communications or
 12 thought -- communications relating to voter ID
 13 legislation or your thoughts or mental impressions
 14 relating to voter ID. And I think the question about
 15 committee assignments may invite testimony on that. And
 16 so with that limitation in mind, you can answer the
 17 question.
 18 A. I had one communication.
 19 Q. (By Mr. Freeman) Okay.
 20 A. And but it involved another legislator, so I'm
 21 not going to get into it.
 22 MR. HUGHES: So, Mr. Hughes, this is what
 23 the court has described as a privileged log type of
 24 question. I believe that I phrased the subject matter
 25 pretty broadly. I was trying to avoid any kind of

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1 objection on this matter about committee assignments as
 2 a general matter.
 3 And therefore, within that general
 4 subject matter, I believe that we are entitled to
 5 discuss with the witness whether communications
 6 occurred, when they occurred, where they occurred, and
 7 with whom they occurred. I will not go beyond that,
 8 unless I'm making a record. But I will understand that
 9 you -- there's a legitimate dispute beyond that point.
 10 But before that point, I do not believe there's a
 11 legitimate dispute.
 12 MR. HUGHES: I think you're accurately
 13 interpreting the court's guidance to us.
 14 MR. FREEMAN: Okay.
 15 MR. HUGHES: So if you asked your
 16 questions that way.
 17 MR. FREEMAN: Well, I believe that my
 18 question was asked that way.
 19 MR. HUGHES: Why don't you try again?
 20 MR. FREEMAN: Can we have it read back?
 21 Sorry.
 22 (Requested portion read back by the court
 23 reporter.)
 24 MR. HUGHES: So now you can ask your next
 25 question, because I think you've already got Step 1, the

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1 court's guidance.
 2 Q. (By Mr. Freeman) Who was that other
 3 legislator?
 4 A. Speaker Strauss.
 5 Q. And when did that occur?
 6 A. I think a day or two prior to the announcement.
 7 Q. And was anyone else present?
 8 A. No.
 9 Q. And where did it occur?
 10 A. It occurred -- well, he was somewhere, and I
 11 was on the receiving end of a phone call.
 12 Q. Okay. Did you discuss your assignments with
 13 anyone after they were made?
 14 A. Other legislators.
 15 Q. Any other members of the Select Committee on
 16 Voter Identification and Voter Fraud?
 17 A. No. Well, you know, I mean, I may have bumped
 18 into them and said, "Hey, I'm on the committee with
 19 you."
 20 Q. Okay.
 21 A. But I'm taking a guess.
 22 Q. Okay. Fair enough.
 23 Now, you previously testified that you
 24 were previously on the Elections Committee; is that
 25 correct?

<p style="text-align: center;">89</p> <p>1 A. Yes.</p> <p>2 Q. What sessions were you on the Elections</p> <p>3 Committee?</p> <p>4 A. I think the session before this last one so</p> <p>5 probably the 81st.</p> <p>6 Q. Anything besides that?</p> <p>7 A. I don't recall. It all blends.</p> <p>8 Q. And you were vice chairman of the Elections</p> <p>9 Committee; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. What is the scope of the Elections Committee's</p> <p>12 authority?</p> <p>13 A. We looked at elections-related bills.</p> <p>14 Q. So any bill related to the Texas elections</p> <p>15 code?</p> <p>16 A. Yeah. But of course, the bill had to be</p> <p>17 referred to that committee. Okay. Because just because</p> <p>18 it's within the purview of one doesn't mean it won't go</p> <p>19 to another.</p> <p>20 Q. And who makes those referrals?</p> <p>21 A. The speaker's office is what I understand.</p> <p>22 Q. And what was your authority as the vice</p> <p>23 chairman of the Elections Committee?</p> <p>24 A. My job was to substitute -- to be the</p> <p>25 substitute for the chairman when he was not present.</p>	<p style="text-align: center;">91</p> <p>1 A. Yes.</p> <p>2 Q. What does it mean to be a second or third</p> <p>3 sponsor of a bill?</p> <p>4 A. That means you're -- you are lending your</p> <p>5 support. There's a lot of symbolism involved. You're</p> <p>6 lending your support and -- and other legislators will</p> <p>7 look upon that as some guidance, at times, depending on</p> <p>8 the legislator. Sometimes they're given to people</p> <p>9 because they asked for them early or they're best</p> <p>10 friends with the author. Sometimes it means nothing</p> <p>11 more than they got there first and the author said okay.</p> <p>12 Q. Is there typically a speaking role on the floor</p> <p>13 in debate associated with a second or third spot?</p> <p>14 A. When it comes to larger bills like the budget,</p> <p>15 yes, it's customary that when it comes to a very large</p> <p>16 bill, that they will break up discussions. But no,</p> <p>17 there's not necessarily a speaking role.</p> <p>18 Q. I'd like to talk to you about your district,</p> <p>19 District 40. Do you know how big your district is in</p> <p>20 square miles?</p> <p>21 A. It's fairly large.</p> <p>22 Q. The Delta area, that's the area to the north of</p> <p>23 Edinburg, correct?</p> <p>24 A. To the east of Edinburg.</p> <p>25 Q. East of Edinburg. Okay. But there's a whole</p>
<p style="text-align: center;">90</p> <p>1 Q. Is it typical for the vice chairman to be of</p> <p>2 the opposing party to the chairman?</p> <p>3 A. That is a recent custom, yes.</p> <p>4 Q. Is there any, as a matter of custom, and this</p> <p>5 doesn't even need to be restricted to the Elections</p> <p>6 Committee, but typically, do the chairman and vice</p> <p>7 chairman organize the members of their party to some</p> <p>8 extent within the committee?</p> <p>9 A. No. That's not been my experience.</p> <p>10 Q. Okay.</p> <p>11 MR. HUGHES: It's like herding cats.</p> <p>12 A. Yeah. Everybody is their own dictator. They</p> <p>13 all decide on their own.</p> <p>14 Q. (By Mr. Freeman) Magic of the legislative</p> <p>15 process.</p> <p>16 Q. Were you aware at the time of committee</p> <p>17 assignments that the Select Committee on Voter</p> <p>18 Identification and Voter Fraud would address only</p> <p>19 in-person voter impersonation and not mail-in fraud</p> <p>20 issues?</p> <p>21 A. I wasn't aware of what bills were going to be</p> <p>22 referred.</p> <p>23 Q. Okay. I guess I have another sort of the</p> <p>24 technical Texas Legislature question for you. Some</p> <p>25 bills have multiple sponsors, correct?</p>	<p style="text-align: center;">92</p> <p>1 swath of northern Hidalgo County that's in your</p> <p>2 district, right?</p> <p>3 A. Yeah. That's what we call the "ranch country."</p> <p>4 Q. Okay.</p> <p>5 A. They're historic ranches, land-granted land</p> <p>6 from the King of Spain to families that are still</p> <p>7 there. They're very proud of that. So that's what we</p> <p>8 call the "ranch land" or the -- yes.</p> <p>9 Q. The ranch land is big, right?</p> <p>10 A. It is big.</p> <p>11 Q. Okay. How would you describe your district in</p> <p>12 terms of its population?</p> <p>13 A. I would assume that it meets the parameters of</p> <p>14 what the population ought to be --</p> <p>15 Q. Do you know --</p> <p>16 A. -- for a district.</p> <p>17 Q. Do you know approximately how big, how many</p> <p>18 people are in a Texas House District?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. No. I could take a guess, but I don't know.</p> <p>22 Q. And how would you describe in it terms of its</p> <p>23 demographics?</p> <p>24 A. Okay. Let's start on the west side. There's</p> <p>25 an area called La Joya and Sullivan City. Culturally</p>

<p style="text-align: center;">97</p> <p>1 A. Yes. We've talked about this before in a prior 2 deposition.</p> <p>3 Q. We have.</p> <p>4 A. It used to be when I was a young boy, the Anglo 5 community was the more affluent.</p> <p>6 Q. Uh-huh.</p> <p>7 A. But in the '70s, and after the World War II 8 generation, the Hispanics had a chance to go college, 9 and that generation, my parent's generation got an 10 education. And with NAFTA, and then some of the banks 11 are no longer -- they're owned by local folks, mainly 12 Hispanics. When the banks started giving out access to 13 capital, many of the business people and Mexicans, 14 Mexicans, at least the ones who come over, are quite 15 affluent. At least -- I'm talking about they're 16 affluent people from Monterey and other areas began to 17 move in, in addition to the large poor population.</p> <p>18 Q. Okay.</p> <p>19 A. And -- I don't know. Did I answer -- what was 20 your question?</p> <p>21 Q. I guess my question was, and I can be a little 22 bit more specific --</p> <p>23 A. Okay. But I want to get back to it. I now 24 remember.</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">99</p> <p>1 Q. Most adults?</p> <p>2 A. Yes.</p> <p>3 Q. Would you say that there's any difference 4 between the Anglo and Hispanic communities about who 5 works hourly versus working, as you said, all the time 6 but as more of a salary issue?</p> <p>7 A. Those differences were stark prior to the '70s.</p> <p>8 Q. Okay.</p> <p>9 A. Okay. Thanks to good lawyers like this 10 gentleman over here (indicating Mr. Garza) and some of 11 the civil rights changes and things have changed. 12 Hispanics became empowered and are now the leaders of 13 the community. And we are moving slowly, some of us, 14 into a post -- I want to believe a post-racial era.</p> <p>15 I'm sorry. I lost your question.</p> <p>16 Q. No. I was just asking if you thought that 17 there was a difference in terms of between Anglo and 18 Hispanic communities --</p> <p>19 A. Yeah.</p> <p>20 Q. -- where the folks are more likely to work 21 hourly wage type of jobs?</p> <p>22 A. The Anglo community is smaller today in 23 comparison to the -- prior to the '70s. Many of the 24 children of the Anglo families have moved on to 25 San Antonio --</p>
<p style="text-align: center;">98</p> <p>1 A. Today, the very affluent tend to be Mexican or 2 Mexican-American. Anglos run in two streams. They're 3 either the working class, oil field workers, truck 4 drivers, or farmers, descendants of farmers. But many 5 of those folks on the lower end of the spectrum, a lot 6 of them have intermarried, so they're -- you know, 7 they're this new kind of folk. They're like the rest of 8 us -- mutts. They're mixed. They're all -- you know 9 what I mean? They're all mixed.</p> <p>10 Q. Yep.</p> <p>11 A. But then you have recent -- recent Anglos who 12 come in but they're working class folks. Then you have 13 this very wealthy elite, but it's a small group of 14 people.</p> <p>15 Q. Okay.</p> <p>16 A. You will have the university community with 17 their professors and what not, and they're like regular 18 folks. But I would say the most affluent in our 19 community are Mexicans or Mexican-Americans.</p> <p>20 Q. Okay.</p> <p>21 A. Mainly Mexicans.</p> <p>22 Q. So you previously said that a lot of your 23 district is working class. Would you say that many of 24 the adults work for hourly wages?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">100</p> <p>1 Q. Okay.</p> <p>2 A. -- and Dallas and other places. Because they 3 wanted to marry. And they -- prior to the '70s, it was 4 -- it was -- there was social limitations on marrying 5 other Hispanics. Today, I don't think those -- those 6 limitations are generally not there. And amongst the 7 poor, amongst the working class, they're not there. I 8 mean, Anglo work poor will marry Hispanic poor 9 because -- but in the old days, prior to the '70s, I'd 10 say those limitations were there.</p> <p>11 Q. Okay. By the way, let the record reflect that 12 when Representative Pena said that there was a good 13 lawyer over there, he was pointing at Mr. Jose Garza.</p> <p>14 A. Jose Garcia has been involved in many of those 15 civil rights cases and --</p> <p>16 Q. Does it -- do a lot of the Hispanic families in 17 your district not own cars?</p> <p>18 A. Most people own cars.</p> <p>19 Q. Are there some who don't?</p> <p>20 A. Yeah, like me.</p> <p>21 Q. Is there public transportation in your 22 district?</p> <p>23 A. Yes. Not in the Delta area, not in La Joya- 24 Sullivan. And you know what, probably not in the 25 Edinburg either. But there is in McAllen.</p>

<p style="text-align: center;">101</p> <p>1 Q. Okay. How many precincts are there in your 2 district? 3 A. I can't answer that. 4 Q. Do you know how many polling places there are? 5 A. No. I can't answer that. 6 Q. More than ten? 7 A. That's a good guess. 8 Q. Do you know how many driver's license offices 9 there are in your district? 10 A. I'm aware of one. 11 Q. Would you agree that for most voters, a polling 12 place is closer than a driver's license office? 13 A. Yes. 14 Q. How long does it usually take a voter to cast 15 their ballot in person? 16 A. Depending on the election and who the 17 candidates are, whether or not it's a presidential cycle 18 or a gubernatorial cycle, I'll just take an average from 19 my personal experience, 15 minutes. 20 Q. You described your constituents as being 21 working class, some of them as living on public 22 assistance. 23 A. Most of them. 24 Q. And would you say that a lot of your 25 constituents need all the wages that they make?</p>	<p style="text-align: center;">103</p> <p>1 but just a couple of additional questions about 2 that. Do you know how many registered voters in Texas 3 lack a driver's license, state ID card or a license to 4 carry a concealed weapon? 5 A. You know, I've seen the numbers reported in the 6 newspaper, and I've seen the argument made by, I guess, 7 yourselves that have been reported in the paper, but I 8 don't recall the number. 9 Q. Did you ever try to find out what that number 10 was at any point, you actively try? 11 A. You mean, do I go around in my district and 12 say -- and do a sample survey and say how many people 13 have a license or don't? 14 Q. That is not what I meant. 15 A. Okay. 16 Q. I'm wondering if you ever, you know, asked 17 with -- concerning voter ID, whether you ever tried to 18 find out from DPS -- 19 A. Those arguments -- 20 MR. HUGHES: Hold on. I'm going to 21 instruct him with respect to legislative privilege, to 22 not reveal the substance of any communication that you 23 had concerning SB 14 or other legislation with any 24 legislators, legislative staff, or with any state 25 agency.</p>
<p style="text-align: center;">102</p> <p>1 A. I think we all do. 2 Q. Would you agree that having to take a few hours 3 off from work would be a burden for those people? 4 A. You mean to go vote? 5 Q. For any purpose? 6 A. Would be a burden, is that what you said? 7 Q. Yeah. 8 A. It would be an inconvenience, but it's not 9 significant. Look, voting in itself is an 10 inconvenience, but it's a duty that we, I think we 11 should have. 12 Q. For some of your constituents, would an 13 unexpected \$22 expense be a burden? 14 A. For me that would be a burden. 15 Q. Okay. Is there high voter turnout in your 16 district? 17 A. You know, this last election cycle, we had one 18 of the highest turnouts when it comes to early voting. 19 Q. Okay. 20 A. But I will say that Hispanics, in general, do 21 not vote on the level of the general population, 22 whatever that means. And that's a nationwide phenomena. 23 Q. So I'd like to talk to you about forms of 24 photographic identification in Texas. We talked about 25 this a little bit with the card you had in your wallet,</p>	<p style="text-align: center;">104</p> <p>1 And Mr. Freeman is entitled to ask certain 2 foundational questions, but by fine-tuning the subject 3 matter like you're doing, you're getting into the 4 legislative privilege, so you need to kind of get more 5 general. So let's try again. 6 MR. FREEMAN: Okay. I'll actually just 7 withdraw the question and take a step back. 8 Q. (By Mr. Freeman) You said you did at some 9 point see some information or arguments made. Do you 10 know when you saw about the number of people who lack 11 IDs, do you remember when that was? 12 A. I've seen it in the paper. I don't recall 13 when. I think arguments were made on the floor. 14 Q. Okay. Did you ever see any specific numbers? 15 A. You know -- I can recall seeing it. 16 Q. Okay. 17 A. But I don't recall the number. 18 Q. Was that before May of 2011? 19 A. I don't know. 20 Q. Okay. Do you have any understanding of whether 21 some groups are more likely than others to lack those 22 types of ID? 23 A. I assume that -- I'm making an assumption, 24 based on observation, that this has to do with 25 educational levels and economic levels.</p>

<p style="text-align: center;">105</p> <p>1 Q. I would describe that as inductive logic rather 2 than an assumption. 3 If -- and so you'd say that poor people 4 are more likely to not have these types of ID, correct? 5 A. They're less likely than affluent people. 6 Q. Yes. Are poverty rates in Texas similar across 7 racial groups? 8 A. No. As I've described, prior to the '60s and 9 after the civil rights movement, Hispanics were largely 10 poor and undereducated. And it's only been a generation 11 or two that we've been able to emerge. You know, 12 emerge. 13 Q. Okay. But as of right now, isn't it the case 14 that Hispanics are much more likely to be poor than 15 Anglos in the state of Texas? 16 A. I would -- you know, where I live. Okay. Your 17 question, let me answer your question. 18 Q. Thank you. 19 A. I would say yes. 20 Q. Are you aware that Texas recently informed the 21 Attorney General that it was the state's belief that 22 there are 795,955 registered voters in the state of 23 Texas who lack a Texas driver's license, identification 24 card or a license to carry? 25 A. I'm aware that you all -- that you all --</p>	<p style="text-align: center;">107</p> <p>1 Q. Less than 70 percent. 2 A. Is it -- that is information that the Justice 3 Department -- 4 Q. It's numbers that were given to the Justice 5 Department by the State of Texas. 6 A. Okay. No. I was not aware of that. 7 Q. Do you know where a voter can obtain an 8 election identification certificate? First off, are you 9 familiar with the term "election identification 10 certificate"? 11 A. I've heard that referenced. Yes. 12 Q. Is that the type of identification that is made 13 available to voters under SB 14? 14 A. That's the -- 15 Q. The new type -- 16 A. -- free ID, yes, as it's described commonly. 17 Q. Do you know where a voter can get that? 18 A. I assume at the DPS office. I don't know. 19 Q. Does SB 14 require employers to provided paid 20 leave to go obtain an ID? 21 A. I don't think that's in there. 22 Q. If an individual had to travel from the ranch 23 country, the northern part of your district, to a DPS 24 office in Edinburg, that would take -- that would take a 25 good amount of time, right?</p>
<p style="text-align: center;">106</p> <p>1 people from your position have made that assertion. 2 I've seen it in the paper. 3 Q. Are you aware of whether the state has agreed 4 with that assertion? 5 A. Oh, I don't know. If you tell me it has, then 6 great. 7 MR. FREEMAN: Well, let's -- if we can 8 have this marked as U.S. 371? 9 (Exhibit U.S. 371 marked for 10 identification.) 11 Q. (By Mr. Freeman) If you can just take a look 12 at that for a moment. 13 A. Why don't you tell me what it says. 14 MR. HUGHES: I want you to take the time 15 to look at it -- 16 THE WITNESS: Oh, okay. 17 MR. HUGHES: -- see if you have questions 18 about it. 19 THE WITNESS: Oh, okay. 20 Q. (By Mr. Freeman) Okay. Are you aware that 21 Texas, that the State of Texas provided data to the 22 Attorney General stating that less than 70 percent of 23 the Spanish surnamed registered voters in Hidalgo County 24 have those types of necessary ID? 25 A. Less than 70 percent?</p>	<p style="text-align: center;">108</p> <p>1 A. 20 minutes, 30 minutes, maybe, the furthest 2 reaches of the county. 3 Q. Okay. And you said earlier that at a minimum 4 it would take 15 minutes to go through a transaction at 5 the driver's license office, right? 6 A. Yes. Yes. 7 Q. And then you got to drive back? 8 A. Yes. 9 Q. So that's an hour off from work at least, 10 right? 11 A. Yes. 12 Q. And so that's going to cost a voter, if they 13 have to go get that ID, that's going to cost them money, 14 right? 15 A. Yeah. 16 Q. In gas, wages? 17 A. Yes. 18 Q. And given that we talked about how the poorer 19 people are more likely not to have ID, would you guess 20 that those are going to be some of the same people who 21 don't have cars? 22 A. Nearly everybody has a car. Okay? But I can 23 say that there are some people without cars, because as 24 I said, I don't have a car. My wife and daughter have a 25 car.</p>

<p style="text-align: center;">109</p> <p>1 Q. Do you think that the loss of wages and the 2 cost of gas to drive back and forth has -- may deter 3 some voters from going to get an ID if they don't have 4 one?</p> <p>5 A. Okay. May deter? Okay. You want me to answer 6 your specific question and not anything else, right?</p> <p>7 That could deter somebody.</p> <p>8 Q. What if -- what if the time at the office were 9 more like two hours or three hours, would that -- would 10 that probably deter some people?</p> <p>11 A. You mean the office times?</p> <p>12 Q. Yeah.</p> <p>13 A. Yeah. That could deter somebody.</p> <p>14 Q. Do you think that a -- if it cost \$22 to get a 15 document that you needed to get that election 16 identification certificate, would that \$22 cost deter 17 some people from voting?</p> <p>18 A. Okay. I'm making an assumption based on human 19 behavior. Okay? But I assume it could be somebody 20 that's deterred.</p> <p>21 Q. You said that some people had described the 22 election identification certificate as a free ID. But 23 if you need to pay money to get a document that you need 24 to get that free ID, is the ID really free?</p> <p>25 A. Okay. You're making an argument. I don't know</p>	<p style="text-align: center;">111</p> <p>1 A. I don't know how to answer your question.</p> <p>2 Q. Will it cost money to that person, the process 3 that they go through to get the certificate?</p> <p>4 A. Look, if you need to get a certificate, that 5 will cost you money.</p> <p>6 Q. Okay.</p> <p>7 A. Okay?</p> <p>8 MR. FREEMAN: You know, lunch is ready, 9 and I'm at a good spot to take a break. I know we want 10 to take a short lunch.</p> <p>11 MR. HUGHES: Let's go off the record.</p> <p>12 MR. FREEMAN: Off the record.</p> <p>13 (Recess from 12:21 to 12:59 p.m.)</p> <p>14 MR. FREEMAN: And we are back from lunch.</p> <p>15 Q. (By Mr. Freeman) Representative Pena, you 16 first ran in 2002; is that correct?</p> <p>17 A. Yes. It could have been 2001, but...</p> <p>18 Q. But the election was 2002?</p> <p>19 A. Yes.</p> <p>20 Q. And was election integrity an issue at all in 21 that campaign?</p> <p>22 A. Yeah. I mean, I've always been a good 23 government guy. That was not my primary focus at the 24 time.</p> <p>25 Q. What position did you take with regard to</p>
<p style="text-align: center;">110</p> <p>1 what to say. I don't know what to say to you.</p> <p>2 Q. I'm asking a question.</p> <p>3 A. It is a fair description, generally speaking,</p> <p>4 to say "free ID." Okay. But the point you're making is</p> <p>5 also a fair description based on your perspective.</p> <p>6 Q. For an individual who does not have a copy of</p> <p>7 their birth certificate, if it costs them \$22 to get a</p> <p>8 copy of their birth certificate, and if they need that</p> <p>9 birth certificate to get the election identification</p> <p>10 certificate, for that individual is the election</p> <p>11 identification certificate free?</p> <p>12 A. You make a good point, but the ID is still</p> <p>13 free.</p> <p>14 Q. Is it effectively free? Is there a cost to</p> <p>15 that individual that they must --</p> <p>16 A. Well, everything --</p> <p>17 Q. -- incur to get that ID?</p> <p>18 A. Everything in life has a cost. You know. The</p> <p>19 point you make is a good argument, but the ID is still</p> <p>20 free. And I don't know what else to say.</p> <p>21 Q. Is it possible to get that ID without spending</p> <p>22 any money for an individual who doesn't have a copy of</p> <p>23 their birth certificate or any of the other documents</p> <p>24 that they need, if they have to pay for the birth</p> <p>25 certificate?</p>	<p style="text-align: center;">112</p> <p>1 election integrity in 2002?</p> <p>2 A. I don't understand. It was not a movement for</p> <p>3 this bill that I can recall.</p> <p>4 Q. Okay. Did you -- did you say anything about</p> <p>5 cleaning up elections in your 2002 campaign?</p> <p>6 A. You know what, I didn't experience what I -- it</p> <p>7 was my first election cycle, and that's when I got hit</p> <p>8 with what is required to get elected in my -- where I</p> <p>9 live. And that was my first --</p> <p>10 Q. Okay.</p> <p>11 A. -- full-blown experience of the uniqueness of</p> <p>12 my area.</p> <p>13 Q. We'll talk about that uniqueness in a moment.</p> <p>14 How about 2004; was it an issue at all?</p> <p>15 A. As we move forward, I began to speak out more.</p> <p>16 I don't remember when. But as we moved forward, oh,</p> <p>17 yeah, I spoke out.</p> <p>18 Q. Okay.</p> <p>19 A. I mean, I think even a, I think, YouTube video</p> <p>20 out there somewhere where I'm speaking out.</p> <p>21 Q. And what aspects of elections did you speak you</p> <p>22 about?</p> <p>23 A. Corruption.</p> <p>24 Q. What type of corruption?</p> <p>25 A. We had a fire bombing of a political camp. It</p>

<p style="text-align: center;">113</p> <p>1 was a Molotov cocktail, and I spoke out against that. 2 Q. At the campaign office? 3 A. Yeah. 4 Q. Anything else? 5 A. The use of politiqueras, on the abuse of the 6 use of them. Look, they perform a valuable function in 7 terms of getting people out to vote who otherwise -- you 8 know, constitutionally and from a good government 9 perspective, it's important to get people out to vote. 10 It's when they cross the line, that's it's offensive. 11 Q. Okay. We'll talk about politiqueras a little 12 bit more later. 13 A. Okay. 14 Q. I just want to focus for a moment on positions 15 that you took in your campaigns with regard to 16 corruption and election integrity. 17 So other than the fire bombing incident 18 and the abuse of politiqueras, was there anything else? 19 A. Paying the voters, paying voters to vote. 20 Q. Okay. 21 A. Using government vans, school district vans to 22 haul voters to the polls. The emptying of day care -- 23 adult dare care centers, and paying off the manager of 24 the center; things of that nature. 25 Q. Anything else specific that you can remember</p>	<p style="text-align: center;">115</p> <p>1 election integrity problems? 2 A. We talked about it, but it was not the dominant 3 form of voter fraud. 4 Q. Do you know when you talked about it in your 5 campaign? 6 A. No, I don't remember that. 7 Q. Do you remember, was it a speech? Was it a 8 mailer? 9 A. These are not -- the audience is not 10 necessarily that receptive -- 11 Q. Okay. 12 A. -- to that speech. But it became so offensive, 13 that I just said, "What the hell am I here for? I'm 14 going to speak up on this." 15 Q. Did you -- did you ever talk about voter ID as 16 a solution during your campaigns? 17 A. At some point, I'm sure I did. 18 Q. Prior to 2010? 19 A. Okay. Not this last cycle. 20 Q. Uh-huh. 21 A. But the cycle before that, voter ID was 22 significant, if I recall correctly. I did speak about 23 it then. 24 Q. Did you had opposed voter ID in 2009, hadn't 25 you?</p>
<p style="text-align: center;">114</p> <p>1 talking about in your campaigns? 2 A. Initially -- okay. I know I'm only supposed to 3 answer the question, but initially, because of 4 recommendations from my staff, I was not as vociferous 5 as I should have been. But I grew stronger in my 6 opposition, as things progressed, because it was bad. 7 Mail-in ballots. I did speak about that a lot. People 8 walk in with ballots in their hands and say, "Hey, you 9 want to buy these from me?" And I'd said, "This can't 10 be legal." 11 Q. Did you ever report any of those incidents to 12 the District Attorney or the Attorney General's Office 13 or anything like that? 14 A. To answer your question, no, but there are 15 reasons for it. 16 Q. Were those individuals -- and I won't ask you 17 to name names, because it's not particularly relevant, 18 but were those individuals politically involved in 19 Hidalgo County? 20 A. In order to get elected in Hidalgo County, 21 everybody looks the other way or is a participant. 22 Q. Okay. 23 A. I'm talking about elected officials. 24 Q. Yeah. Did you ever campaign on mentioning 25 issues of in-person voter impersonation as one of those</p>	<p style="text-align: center;">116</p> <p>1 A. Okay. Now, you're getting into the days -- the 2 dates are confused in my mind. 3 Q. Okay. 4 A. I think I commented on it in my blog that it 5 was -- I didn't think it was appropriate. 6 Q. And then did you -- did you ever take a 7 position, in your 2010 campaign, that it was 8 appropriate? 9 A. 2010? 10 Q. The last time you ran. 11 A. No. No. It wasn't until -- I remember sitting 12 with my chief of staff and saying, "I'm going to support 13 this." 14 Q. Do you remember when that was? 15 A. No. 16 Q. Was it just in this last session? 17 A. I don't remember. It was prior to the last 18 session. 19 Q. So I would like to talk to you about some of 20 these Hidalgo County election issues that you have been 21 mentioning. 22 A. Okay. Yes. 23 Q. Sure. What were you about to say? 24 A. It's not just Hidalgo County. Okay? But since 25 that's where I live, that's what I focus on.</p>

<p style="text-align: center;">117</p> <p>1 Q. Okay. Would you say that these issues are 2 endemic to South Texas?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. But -- yes. Okay. To answer your question, 6 yes.</p> <p>7 Q. Okay.</p> <p>8 A. But they are in other areas as well.</p> <p>9 Q. So let's focus on Hidalgo County, just because 10 your knowledge of Hidalgo County is best --</p> <p>11 A. Yes.</p> <p>12 Q. -- than other counties, correct?</p> <p>13 A. Yes.</p> <p>14 Q. So let's focus on Hidalgo County. 15 How would you describe political 16 campaigning in Hidalgo County?</p> <p>17 A. It's in transition, but the traditional method 18 of campaigning is, as -- I didn't notice it at the time 19 when I ran, but this is what I've come to learn -- is 20 you go to the political bosses in the community. And by 21 that I mean, well, political bosses, I think you 22 understand what I mean by that.</p> <p>23 And at the time when I first started, 24 there were multiple political bosses. Now, they have 25 consolidated to some degree. But you go over there, you</p>	<p style="text-align: center;">119</p> <p>1 in the past, it was, they would say, "This is who you're 2 voting for." Now, to my advantage is, no one remembered 3 what they told them to do, and they remembered me, 4 because I have a -- my father was a prominent figure 5 from the Delta area, so we always kind of won out that 6 way. Today, though, assisted voting is the crime, the 7 voter fraud of choice.</p> <p>8 Q. Okay.</p> <p>9 A. They go in and say, "Hey, we want to assist 10 you. You need to ask for us to assist you." And they 11 will say yes because they want to continue their 12 employment or their family's employment with some of 13 the local government jobs, usually a school district. 14 And if you refuse, well, you're deemed not to be 15 loyal. You're too independent for them.</p> <p>16 And so you have some areas, like in the 17 Delta area, like in Hidalgo, like in the Mid Valley, and 18 this phenomena is growing, where assisted voting is now 19 the -- the voter fraud of choice.</p> <p>20 Now, mail-in ballots, it used to be really 21 strongly abused, but after Steve Wolens passed a bill 22 restricting -- or increasing punishments for it -- Steve 23 Wolens is a member from Dallas.</p> <p>24 Q. Uh-huh.</p> <p>25 A. That strongly diminished things, so -- and</p>
<p style="text-align: center;">118</p> <p>1 kiss their ring and you ask for their blessing. They 2 usually want money. It's either said or inferred, okay?</p> <p>3 Now, I'm not speaking of personal 4 knowledge, because nobody asked me, nobody directly 5 asked me for money. They want to hire their ladies, 6 hire their ladies, which means hire their crew of 7 politiqueras. Once you get the blessings of certain 8 people, then other sub bosses fall in line. Then you 9 look to the dominant families of the community. You 10 know, hopefully you mimic the -- your population as a 11 whole in terms of their issues. Hopefully you come from 12 a family that's respected. And you got out and meet 13 people. In the Delta area, we have competing clubs. We 14 now have three, where we used to have two during my 15 period, the TACO and the BEE Club. And you go and you 16 pitch yourself to them. And they typically want money 17 in exchange. Well, it is implied that the money is in 18 exchange for an endorsement. And then they have their 19 ladies that go out and gather people together.</p> <p>20 It's not something I did, but it is well 21 known that you -- there are certain people you can go 22 to, to buy elderly day care centers. By "buy" I mean 23 you hire the leader who leads the ladies to go in to 24 vote. And they strongly suggest, in the past, now they 25 just do it there with them with assisted voting -- but</p>	<p style="text-align: center;">120</p> <p>1 then, for those independent voters in Edinburg or 2 McAllen or somewhere, you would make a pitch.</p> <p>3 Q. Okay.</p> <p>4 A. You know, "Hey, let me tell you why I'm the 5 best guy, because I didn't get arrested for drug 6 dealing," you know? My first opponent was arrested for 7 selling drugs, and he was a convicted felon in Mexico. 8 But since he wasn't arrested here, the argument was that 9 he was not a convicted felon in the States. I just 10 wanted to beat him. I didn't care about that issue. 11 And, you know, you hope that the independent voter, the 12 election day voter -- it was traditionally an election 13 day voter which is the independent voter -- would carry 14 you. That was my support.</p> <p>15 Q. Uh-huh. So the voter assistance and the issues 16 with regard to mail-in ballots, is that what you 17 previously referred to in the media as voter harvesting?</p> <p>18 A. I used the term "voter harvesting" because 19 Steve Wolens used that specific language when he 20 presented the bill.</p> <p>21 Q. Okay.</p> <p>22 A. He never used that word in the Valley, we said 23 "politiqueras."</p> <p>24 Q. Okay.</p> <p>25 A. And as I said, being a politiqueras is not a</p>

<p style="text-align: center;">121</p> <p>1 bad thing in itself. All it means is, is if you're a 2 political person, a female political person, or a 3 political person, is when they cross the line, and then 4 it becomes inappropriate.</p> <p>5 Q. So politiqueras, they're mostly women? There 6 are a few politiqueros?</p> <p>7 A. Yeah, they're mostly women.</p> <p>8 Q. Okay. Have you ever hired any politiqueras?</p> <p>9 A. In my first cycle, yes, I did.</p> <p>10 Q. Okay. And what was the role for politiqueras 11 in your election?</p> <p>12 A. Well, forgive me. In my first cycle, I hired 13 somebody who hired them, okay?</p> <p>14 Q. Yeah. What was the role of the politiqueras?</p> <p>15 A. As I understood it, their job was to go and 16 advocate in the community.</p> <p>17 Q. Okay.</p> <p>18 A. And particularly to some of the poorer elements 19 in the community. And I was unaware of the adult day 20 care centers and I was unaware of a lot of the other 21 stuff I have now described to you.</p> <p>22 Q. And current law doesn't address all of these 23 issues that you have described with regard to 24 politiqueras, correct?</p> <p>25 A. Yeah, as I said, it's not -- it's like being a</p>	<p style="text-align: center;">123</p> <p>1 you think are improper, correct?</p> <p>2 A. Yeah. Current law needs to be refined to 3 address specific circumstances. But it's a delicate 4 balance, because there are a lot of constitutional 5 questions involved. Somebody has got to care, because 6 I'm not sure -- I'm not sure we've reached that point of 7 viability where people are concerned about the question.</p> <p>8 Q. Okay.</p> <p>9 A. On the specific questions I have raised.</p> <p>10 Q. Were there any in-person voter impersonation 11 issues that came up in any of your campaigns, where a 12 voter came up and said --</p> <p>13 A. In-person impersonation?</p> <p>14 Q. Uh-huh.</p> <p>15 A. One of my staff members told me that his father 16 had voted against me, and I said, "Why?" He said, 17 "Well, he's been dead for five years." So somebody 18 impersonated him.</p> <p>19 Q. How did you know the vote was against you?</p> <p>20 A. That's what he told.</p> <p>21 Q. Okay. So you couldn't have known whether the 22 vote was for or against you, correct?</p> <p>23 A. That's what he told me.</p> <p>24 Q. But you'll agree with me that we have ballot 25 secrecy laws in the United States, right?</p>
<p style="text-align: center;">122</p> <p>1 lawyer. There's nothing wrong with being a lawyer. 2 It's when you cross the line that it's inappropriate. 3 There's nothing wrong being a politiquera; it's when you 4 cross the line that it's inappropriate.</p> <p>5 So is there anything in the law? I'm sure 6 there -- there is something the law about intimidating 7 voters. There is something in the law about other 8 things like that. But what I have found is, nobody 9 advocates for cleaning it up, because everybody depends 10 on it, where I'm from.</p> <p>11 Q. Okay.</p> <p>12 A. Now, Steven Wolens encountered it because 13 what -- what happens in the border has been moved to 14 Dallas, and Steve Wolens had it apply to him, so he 15 spoke up.</p> <p>16 Q. Okay.</p> <p>17 A. So when I spoke up, I was generally met with 18 resistance from the elected politicians who said, "What 19 are you doing? We've got a good thing going here. Why 20 are you doing this?"</p> <p>21 Q. And you've advocated for changes in laws that 22 would rein in some of these practices, correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. So you -- based on that, you believe that 25 current law doesn't address all of these practices that</p>	<p style="text-align: center;">124</p> <p>1 A. Well, okay. Look, I've never checked the 2 point, okay?</p> <p>3 Q. Yeah.</p> <p>4 A. He just said it to me. But this fellow who 5 worked for me is from the area and knows the inner 6 workings of the area. So if that's what he said, I had 7 no reason to doubt what he said. It's not a -- it's 8 within the realm of possibility, okay?</p> <p>9 Q. Sure. But you don't have -- you don't real 10 proof that it happened other than him saying it, 11 correct?</p> <p>12 A. No, I just -- I just trust what he said. He 13 has no reason to say it to me.</p> <p>14 Q. And did he say that that was in person, or did 15 he say that someone had voted in person as his father?</p> <p>16 A. All he said was, "Hey, my dad voted against 17 you." And I said, "How did he do that?" He said, 18 "Mr. Pena, my dad has been dead for five years." And I 19 said, "Really? Who told you that?" And he says -- I 20 don't remember what he said after that, but he somehow 21 knew.</p> <p>22 Q. Okay. But he didn't say, "My dad voted 23 in-person against you"?</p> <p>24 A. No, he didn't.</p> <p>25 Q. Okay. Any other in-person issues?</p>

<p style="text-align: center;">125</p> <p>1 A. Well, like I said, everything I tell you is 2 going to -- what I'm going to tell you next is what 3 somewhat hearsay, because I only hear what people tell 4 me, okay? 5 Q. Sure. 6 A. They'd say at the -- at the polling -- at the 7 elections office, that individuals would know who did 8 not vote or whose ballot has not been cast, and they 9 somehow would get those votes or ballots to somebody 10 else to cast in those persons' names. 11 Q. Uh-huh. 12 A. We were always concerned that that was going to 13 be applied to us. 14 Q. Uh-huh. 15 A. You know, because I had the machine working 16 against me for two or three of the cycles. And so we 17 were always concerned that we'd win the independent vote 18 but we'd lose through these manipulations. So we 19 watched, to the extent we could watch. But these are 20 well established practices that I had no way of knowing 21 or infiltrating. I was simply told. 22 Q. Okay. And so with regard to knowing who hadn't 23 voted yet, using those votes, is that being done by the 24 person running the polling place? 25 A. Well, look, if you operate the machine, the</p>	<p style="text-align: center;">127</p> <p>1 be mail in, right? 2 A. Yeah. 3 Q. Okay. So voter ID won't do anything about 4 that, right? 5 A. Right. 6 Q. Okay. And am I correct that there were 7 indictments in McAllen in 2006 related to the 2005 8 mayoral election? 9 A. Yeah. That's one of these fellows who -- yes. 10 Q. What are the alleged crimes? 11 A. Well, he was taped, and I think he was willing 12 to sell votes. He was a well known -- well, he was a 13 son of a politiquera. 14 Q. Okay. 15 A. And he was -- he was a politiquero in training, 16 okay? 17 Q. Okay. Got it. 18 A. And he went to, I think, Olthal Brand, Jr. and 19 said, "Hey, I've got all these ballots. Would you like 20 to buy them?" 21 Q. Okay. But those were for mail-in ballots? 22 A. Yeah, that's got to be what it is. 23 Q. Okay. So, again, this isn't an issue that had 24 to do with voter ID, right? 25 A. No.</p>
<p style="text-align: center;">126</p> <p>1 political machine -- 2 Q. Uh-huh. 3 A. -- or machines? 4 Q. Uh-huh. 5 A. You want to make sure that you have people in 6 there. 7 Q. Yeah. 8 A. The people in office are part of the political 9 process, and they are part of the machine many times, so 10 they have people in there, so that they won't get 11 screwed from the other side who's got people in there. 12 You know what I mean? 13 Q. No, I understand what you mean completely. 14 If the people in the precinct, though, are 15 part of the fraud, a voter -- 16 A. No. This is the election office. 17 Q. In the election office. 18 A. This is the way it was described to me. 19 Q. Okay. Not in the precinct? 20 A. I don't know. The time I told you about where 21 people were -- they looked for people who hadn't voted, 22 and they then they passed out ballots -- 23 Q. Yep? 24 A. -- was in the elections office. 25 Q. Okay. So passing out ballots, that's going to</p>	<p style="text-align: center;">128</p> <p>1 Q. And there weren't actually convictions in the 2 end; is that right? 3 A. You rarely have convictions. But to answer 4 your question, no. 5 Q. Okay. 6 A. But just as a commentary, you're not going to 7 have convictions. 8 Q. Are there any other indictments in Hidalgo 9 County that you remember in recent time about like 10 election crimes like this? 11 A. Like this? 12 Q. Uh-huh. 13 A. They occur on occasion, but they always go 14 away. 15 Q. Are you aware of any other incidents of proven 16 in-person voter impersonation that have occurred in your 17 district? 18 A. Proven you mean like a conviction? 19 Q. A conviction or established fact in some other 20 way, an admission. 21 A. No. 22 Q. Anything else in Hidalgo County? 23 A. None that I can recall. 24 Q. Anything else in the state of Texas? 25 A. Yeah. Recently in Fort Worth, there was</p>

<p style="text-align: center;">129</p> <p>1 something. 2 Q. Was that a conviction or just an allegation? 3 A. Oh, okay. I think he was convicted, was he 4 not? 5 Q. In Fort Worth? 6 A. This was like a judge -- forgive me. I read it 7 in the paper. 8 Q. It was just recent, though, right? 9 A. It was just recent. 10 Q. Anything other than that incident? 11 A. Yeah. There have been others. You mean voter 12 fraud crimes? 13 Q. In-person voter impersonation. 14 A. Oh, in-person? 15 Q. Uh-huh. 16 A. No, I'm sorry, I don't recall that. 17 Q. Okay. You know, I think we discussed briefly 18 before, but what is Texas's current system, before SB 14 19 is implemented, if it is implemented, for determining a 20 voter's identity when they show up at the polling place 21 to vote? 22 A. What is the procedure? 23 Q. Yeah. 24 A. Well, normally, you have your voter card. 25 Q. Okay.</p>	<p style="text-align: center;">131</p> <p>1 person there controlling things. 2 Q. Okay. Okay. But if you're the person there 3 controlling things, and if SB 14 were in place, that 4 wouldn't make a difference, either, correct, because you 5 would just tell them, who cares about the driver's 6 license, just let them vote? 7 A. Okay. So, your question again? 8 Q. So you were saying under the current law, if 9 you wanted to commit in-person voter impersonation, you 10 would just go to a polling place where you controlled 11 the poll workers? 12 A. Right. 13 Q. And then they wouldn't have to show the voter 14 registration card. 15 A. Right. 16 Q. But if SB 14 were in place and a voter ID 17 requirement were in place with a photo voter ID, you 18 would just tell the poll workers who were yours to 19 control, "Don't make them show a photo ID," just like 20 you wouldn't have them show a voter registration card, 21 right? 22 A. That's what I would do. 23 Q. Okay. So SB 14 wouldn't solve that, would it? 24 A. I don't know. 25 Q. Well, how would it solve it?</p>
<p style="text-align: center;">130</p> <p>1 A. And I assume there's a presumption that that's 2 you who signed. 3 Q. Okay. 4 A. You have an ID, which is what I think most 5 people do. 6 Q. Okay. 7 A. And you sign. 8 Q. And so under the system that exists now, what 9 would someone have to do to commit in-person voter 10 impersonation? 11 A. You want me to give you an example -- 12 Q. Sure. 13 A. -- of what they would do? 14 Q. Yeah. 15 A. This is what I would do: If I was in the 16 Valley, I'd find a polling place that is rarely used 17 probably one out in a small little colonia that nobody 18 goes to, and I'd make sure that the campaign workers 19 were my campaign workers. And then I'd figure out the 20 people who had not voted, especially on the last day. 21 And I'd say, "These people haven't voted. Come on in 22 and vote," and they would simply come in and vote. 23 Q. But wouldn't they have to show a registration 24 card? 25 A. Not if you're the person. Not if you're the</p>	<p style="text-align: center;">132</p> <p>1 A. Well, let me just say this, that once the 2 message is communicated back home that the government is 3 getting involved in taking care of the corruption, just 4 like when the W bill passed -- 5 Q. Uh-huh. 6 A. -- there was a chilling effect on the 7 corruption. I think that if you pass a bill like this, 8 it sends a message of confidence, and it will have a 9 chilling effect on the corruption. It may not solve it 10 all. 11 Q. Okay. 12 A. I doubt that you will eliminate the sins of 13 man, but you'll at least, you know, have -- there will 14 be a sense that somebody is paying attention. 15 Q. So is it your opinion that the current voter 16 identification system does not create a sense that 17 someone is paying attention? 18 A. I think we are striving -- okay. I think the 19 general public is frustrated. 20 Q. Okay. 21 A. And they're frustrated with government in 22 general. They're frustrated with our institutions. 23 They're frustrated with a lot of things, and they want 24 to have a solution, and this is one they've latched on 25 to, for whatever reason.</p>

<p style="text-align: center;">133</p> <p>1 Q. Okay.</p> <p>2 A. And so by voting for the bill, if this is what</p> <p>3 they want -- and even if it's a piece of symbolism, it</p> <p>4 has value. Now, I would say it goes beyond symbolism,</p> <p>5 because it does have value. So I do think it's</p> <p>6 important that we stand up.</p> <p>7 Q. Do you feel that some of that symbolic value is</p> <p>8 lost if the law at issue disenfranchises some people?</p> <p>9 A. Let me tell you. That's the question for the</p> <p>10 court, okay? And as I've said to you, make your case.</p> <p>11 And the question really is: Is this impediment, this</p> <p>12 minor impediment, what I consider a minor impediment, is</p> <p>13 it significant enough that it's illegal? And that's the</p> <p>14 question you're going to raise.</p> <p>15 But what we were told is that the law that</p> <p>16 we passed was very similar to, I think, an Indiana law,</p> <p>17 which had already ruled constitutional. Now, they did</p> <p>18 not have preclearance requirements. And so we sought to</p> <p>19 take the course of least resistance, which was to have a</p> <p>20 law that was basically like the one that was found to be</p> <p>21 constitutional. And this is what people want. If you</p> <p>22 look at the polls, this is what people want.</p> <p>23 Now, knowing all the type of voter fraud</p> <p>24 that I encounter back home, I realize, and I have</p> <p>25 publicly stated, that this was simply a good start. But</p>	<p style="text-align: center;">135</p> <p>1 prior to when you voted on the bill, how many people</p> <p>2 didn't have this necessary ID, would you have wanted to</p> <p>3 know then? Would that have mattered?</p> <p>4 A. The arguments were made, and it's always</p> <p>5 important to have information available to you, as much</p> <p>6 as you can provide. But I still think the overwhelming</p> <p>7 benefit, where I live, at least, is important, because</p> <p>8 at the moment, you can literally buy an election. And</p> <p>9 what it does is, it produces officials who are part of a</p> <p>10 corrupt process, and they reflect that process.</p> <p>11 And so you will have -- there are many</p> <p>12 people serving in office who ought to be in jail today</p> <p>13 where I live. But there's very little accountability</p> <p>14 except through the federal system, and they can't be</p> <p>15 watching us all of the time. This corruption is a tax</p> <p>16 on the very poor people I represent.</p> <p>17 Q. But isn't taking away the rights of the very</p> <p>18 poorest people who don't have the ID also a tax on them?</p> <p>19 A. Well, I don't think -- you know, in order to</p> <p>20 get those of us -- those of us, those in my community</p> <p>21 who are on government assistance, they have to have ID</p> <p>22 in order to get that assistance. I just don't see it.</p> <p>23 If they need the identification, they need to -- they</p> <p>24 need to get it if they don't already have it.</p> <p>25 Now, in future legislative sessions, can</p>
<p style="text-align: center;">134</p> <p>1 the injection of confidence that somebody is actually</p> <p>2 doing something matters. Now, all that I say to you</p> <p>3 is: Make your case and let the court decide.</p> <p>4 Q. My question for you is, as a legislator --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- doesn't that possibility of</p> <p>7 disenfranchisement concern you when you decide what</p> <p>8 symbol to use?</p> <p>9 A. Okay. Look. When I go to an airport, I used</p> <p>10 to love it, when I'd go to Southwest Airlines here in</p> <p>11 Austin, I could be there 30 seconds of when they closed</p> <p>12 the gate, and they'd let me in, and we'd take off. And</p> <p>13 it was wonderful. You know, now, they don't let me do</p> <p>14 that. Now I've got to go through screening and all</p> <p>15 that, and now I have to have an ID, and, you know, a</p> <p>16 pat-downs or whatever. It's an inconvenience, but it is</p> <p>17 a minor inconvenience for the value that's achieved.</p> <p>18 Now, like I said, if you can prove that</p> <p>19 this is a substantial inconvenience and people are not</p> <p>20 voting in large numbers, make your case. But I think</p> <p>21 that this is something that people want and that is not</p> <p>22 -- is not burdensome in comparison to our daily lives</p> <p>23 where we have to use an ID card for everything else.</p> <p>24 Q. If the Department of Elections had known prior</p> <p>25 to your -- if the Department of Elections had known,</p>	<p style="text-align: center;">136</p> <p>1 the -- can the identification -- identifications</p> <p>2 expand? Can they have other locations available that</p> <p>3 are more proximate? Those are questions of policy or</p> <p>4 law, and they'll have to be made in the future. I still</p> <p>5 think the value of having this passed has more value, at</p> <p>6 least to where I live, than any detriment.</p> <p>7 Q. Even if it's a purely symbolic value?</p> <p>8 A. It has value even if it is symbolic.</p> <p>9 Q. And would you say that flying is a fundamental</p> <p>10 right? The ability to get on an airplane?</p> <p>11 A. Hmm. Is that fundamental right?</p> <p>12 Q. (Nods head yes.)</p> <p>13 A. No, I don't think it's a fundamental right.</p> <p>14 Q. Is voting a fundamental right?</p> <p>15 A. Yeah, I would say it is.</p> <p>16 Q. And so would you say that balancing voting</p> <p>17 against symbolism is a trickier proposition than</p> <p>18 balancing flying against symbolism?</p> <p>19 A. That's the argument you're going to have to</p> <p>20 make.</p> <p>21 Q. I'm asking you a question.</p> <p>22 A. Oh.</p> <p>23 Q. Would you agree?</p> <p>24 A. Taking all things into consideration, I still</p> <p>25 think the law has more value than it does harm.</p>

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1 MR. FREEMAN: I'm going to object that
 2 that's not responsive and ask you to answer my
 3 question.
 4 A. Ask it again.
 5 Q. Do you think that it is more -- do you think
 6 that it is a more difficult proposition to balance
 7 voting against symbolism than to balance flying against
 8 symbolism and a more dangerous proposition?
 9 A. Is it more difficult?
 10 Q. Is it -- is it the same thing?
 11 A. Oh.
 12 Q. Is it equivalent?
 13 A. Well, okay. Yeah, it depends on your
 14 perspective. If you want to say that one is a right and
 15 the other is not a right, I guess those are different
 16 things.
 17 Q. Are you aware of how many convictions in total
 18 have been obtained by the Attorney General of Texas for
 19 in-person voter impersonation in the last 20 years?
 20 A. No. I would assume -- well, okay. It's not my
 21 job to assume. No.
 22 Q. Okay. Are you aware of whether Attorney
 23 General Abbott has dedicated substantial resources to
 24 investigate in-person voter impersonation?
 25 A. I know that he cares deeply about the issue,

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1 because I have spoken -- you know, many of my
 2 constituents. Just the other day, just last week, I
 3 turned in 88 or 81 complaints to his office on voter
 4 fraud, and I know his office takes an interest in the
 5 question.

6 Q. Would you agree that mail-in ballots are a
 7 greater source of fraud or election abuses than
 8 in-person voter impersonation?
 9 MR. HUGHES: Asked and answered.
 10 Q. (By Mr. Freeman) You can answer.
 11 A. Yeah. There are other abuses that are greater.
 12 Q. In fact, isn't the case that you told the
 13 McAllen Monitor that there is, in fact, voter
 14 corruption, but most of it appears in mail-in, in mail
 15 ballot voting, and some people think voter ID is going
 16 to solve these things, but it doesn't deal with the
 17 problem?
 18 A. Right.
 19 Q. Are you aware of any incidents of noncitizen
 20 voting that have occurred in your district?
 21 A. That is not -- okay. In my experience and what
 22 I've perceived, that is not a large problem. Now, that
 23 doesn't mean it doesn't exist, okay? Where I live, many
 24 people don't even know if they're Americans or not.
 25 My wife -- I always a pick on her and joke

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1 with her. We didn't know if she was an American or not,
 2 because half of her brothers are Mexicans, and her
 3 parents told her that she was an American. And so I
 4 said, "Well, how do you know you're an American? How do
 5 you prove you're an American?" Well, she was born
 6 through midwife, so we had to get documentation, and it
 7 was contested by the federal government.
 8 On the border, these are real things. So
 9 I can see somebody voting who thinks they're an
 10 American, but, in fact, they're not. I mean, inside
 11 themselves, they think like an American, but they
 12 legally are not American. So it's possible. But you
 13 don't see mass floods of people coming across the bridge
 14 to vote. Now, is it possible? Yeah. Now, I've heard,
 15 in the Delta area, that some of the people may have to
 16 go in and cast votes are noncitizens. But I will tell
 17 you, that is not a significant part of voter fraud.
 18 Q. Okay.
 19 A. These are Americans committing voter fraud.
 20 Q. Are you aware of any investigations of the
 21 issue in your area?
 22 A. No. You're not going to find that occurring.
 23 One, the federal level has more important things to deal
 24 with, the cartels and smuggling and murder and
 25 kidnapping. And on the state level, I think you'll find

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1 this across the board, that the DAs are not going to get
 2 involved. They think it's too hard to prosecute or it's
 3 inconvenient for them, politically speaking.
 4 Q. Are you aware of any public statements made by
 5 advocates of photographic voter ID laws that photo voter
 6 ID will deter illegal immigrants from voting?
 7 A. Yeah, I've had people say that to me, and I've
 8 responded in public saying that we have a hard enough
 9 time getting Americans to vote, let alone Mexicans.
 10 That -- you know, look, people will speak
 11 their fears or speak their -- but the reality on the
 12 ground, because I live there and I live in probably one
 13 of the areas with the highest level of this voter fraud,
 14 we don't have Mexicans coming over. If they do, it's a
 15 mistake that was made. They were corralled in an old
 16 folks' home, they were brought in, "Are you an
 17 American?" "Yeah, I'm an American. Look here. I live
 18 here. I live here. I'm an American." In fact, they
 19 never got their citizenship papers, and they're 90 years
 20 old and they don't know any better. That's what
 21 happens.
 22 Q. Yeah. Is it necessary to swear under oath that
 23 you're a U.S. citizen to register to vote?
 24 A. Huh. I've never looked at the documentation,
 25 but I don't know if it's there or not. It is there?

<p style="text-align: center;">141</p> <p>1 Q. Do you recall on a voter registration card -- 2 A. No. 3 Q. -- if there's a box you have to check? 4 A. No. I'm curious. Does it say that? 5 Q. It's my role not to testify. 6 A. (Laughing.) 7 Q. Can I ask you: What ethnic or language 8 minority group makes up the majority of noncitizens in 9 Texas? 10 A. Oh, that's Mexican American. I'm sorry. 11 Mexicans, Mexican American. 12 Q. Okay. Why would people who advocated in favor 13 of this law in public, like David Temple, who is an 14 election judge from, I don't recall exactly where, 15 connect voter ID to undocumented immigrants, or as 16 they're going to say, illegal aliens from voting? 17 MR. HUGHES: Objection. That calls for 18 speculation and the reading of somebody else's mind and 19 is a totally improper question.</p> <p>20 Q. (By Mr. Freeman) To the best of your 21 understanding of the political process, what role would 22 it have for an individual to advocate publicly in favor 23 of the bill based on connections to stopping illegal 24 aliens from voting?</p> <p>25 MR. HUGHES: The same objection. You can</p>	<p style="text-align: center;">143</p> <p>1 intent, but in the intent of the legislature as a whole, 2 the purpose of the bill, given this advocacy, do you 3 believe that any part, the purpose of the bill was to 4 prevent illegal aliens from voting? 5 MR. HUGHES: Keep if mind my prior 6 instruction to you, please. 7 A. I have never -- I never heard, except through 8 the testimony of one witness who came before us 9 representing some advocacy group, I never heard that 10 stated amongst legislators. We simply wanted to pass 11 the bill. It's a long standing question, or it was. 12 MR. FREEMAN: Mr. Hughes, I'll ask if, if 13 I ask a general purpose question, that you not interrupt 14 my examination of the witness with an instruction that 15 goes beyond a general purpose question and restricts the 16 witness from answering my question immediately. 17 MR. HUGHES: I'm going to keep making my 18 objections. 19 MR. FREEMAN: And I'm going to keep making 20 my record that your objections are entirely unwarranted. 21 THE WITNESS: We must be at the good part. 22 Q. (By Mr. Freeman) This document has been 23 previously marked as Exhibit 7. 24 Mr. Pena, have you seen this website 25 before?</p>
<p style="text-align: center;">142</p> <p>1 answer. This is not a privilege objection. 2 A. You know, politics is polemic. Sometimes it's 3 easy to throw out language that helps -- that brings 4 people together by having a world view that's similar, 5 and you espouse that, so you're a member of the club 6 because you espouse the same world view that other 7 people have, because they have fears that there are 8 changes occurring in Texas. And the reality is, as I've 9 stated before, we don't have a lot of Mexican nationals 10 coming over intentionally to vote.</p> <p>11 Q. (By Mr. Freeman) But was one of the purposes of 12 SB 14 to prevent illegal aliens from voting?</p> <p>13 MR. HUGHES: Again, I want to give my 14 legislative privilege instruction not to reveal your 15 mental impressions, opinions about the legislation. And 16 as to purpose, you can testify about the general 17 purpose, but not about the individual intents of 18 specific legislators.</p> <p>19 A. My intent was, because of the people who wanted 20 it and because it was presented to me, and I have to 21 answer the question, because I believe it injects 22 confidence in the people. I see it as the first step, 23 not as a step to solve the whole lot. It's a first 24 step.</p> <p>25 Q. (By Mr. Freeman) And beyond your individual</p>	<p style="text-align: center;">144</p> <p>1 A. Have I seen her website? 2 Q. Uh-huh. 3 A. Not that I recall. 4 Q. And who is -- who is "her"?</p> <p>5 A. Patricia Harless is a member, and I think in 6 relation to this question before us, she's the author of 7 the bill.</p> <p>8 Q. Is she the author of the bill or the sponsor of 9 the bill?</p> <p>10 A. I'm sorry. Sponsor of the bill. 11 Q. Thank you. Just helping you out. 12 A. I forgot that it came out of the Senate. 13 Q. And do you see where, on her list of important 14 issues, she lists require Texas photo ID to vote?</p> <p>15 A. Yes, I see that. 16 Q. And do you see what category it's under? 17 A. Immigration reform.</p> <p>18 Q. What is the connection between photographic ID 19 and immigration reform?</p> <p>20 A. I assume -- well, I'm just having to assume 21 here, but I believe that many people make the false 22 impression that there's a connection that we have 23 illegal aliens voting, and it's not been my experience.</p> <p>24 Q. Okay. But in terms of the general purpose of 25 the legislature, do you believe that -- do you continue</p>

<p style="text-align: center;">145</p> <p>1 to believe that not part of the purpose of SB 14 is to 2 prevent illegal aliens from voting?</p> <p>3 MR. HUGHES: Keeping in mind my prior 4 caution.</p> <p>5 A. I assume, and you know -- well, I don't know. 6 Yeah, I'm guessing. Nobody communicated that to me 7 except for that one witness that we had testify, who I 8 corrected on the record. I said, "It's not the case. 9 We don't have -- we don't have Mexicans coming across 10 the border for that purpose. They come over to work."</p> <p>Q. And are you aware of whether staff of the Lieutenant Governor have continued to state, during depositions in this case, that the purpose of the bill was to prevent noncitizens from voting?</p> <p>A. No, I'm not aware of that.</p> <p>Q. If they had stated that, and I'll represent to you as a member of the court that they have, would that change your answer?</p> <p>A. You mean, if what you say is true --</p> <p>Q. Yeah.</p> <p>A. -- did he say it?</p> <p>Q. I can represent to you, as a member of the court, that staff of the Lieutenant Governor and multiple staff members of the Lieutenant Governor stated during their depositions in this case, that the purpose</p>	<p style="text-align: center;">147</p> <p>1 in this country legally from voting. I mean, not to say 2 that that's a large problem. But in my experience, it 3 does have that purpose -- effect, I should say.</p> <p>Q. Are there any other problems that you can think of with the current system of establishing voters' identities at the polls?</p> <p>MR. HUGHES: Objection, vague.</p> <p>A. I don't understand. Say it again.</p> <p>Q. (By Mr. Freeman) So we have discussed the current system of establishing the voters' identity at that polls. You have to show your election, your registration certificate, or if you don't have that, you have to show an ID. We talked about that before, right?</p> <p>A. Right?</p> <p>Q. Are there any other problems, other than what we've discussed previously?</p> <p>A. Not that I can think of.</p> <p>Q. Okay. Now, we previously talked about the lack of reported incidents of voter impersonation, reported incidents of voter impersonation in Hildago County; that the fraud or irregularities or problems that they're having are not about impersonation, right?</p> <p>A. Well, okay. What I will say is that I know of none. That doesn't mean that they don't happen.</p> <p>Q. Okay. Just like you don't know about a bunch</p>
<p style="text-align: center;">146</p> <p>of SB 14 is to prevent noncitizens from voting.</p> <p>A. Okay. If you say so. Okay.</p> <p>Q. Does the change your --</p> <p>A. Now, I will say that it does prevent noncitizens from voting, okay?</p> <p>Q. How does it prevent noncitizens from voting?</p> <p>A. Well, in order to get an ID, you've got -- you've got to show that you're from this country.</p> <p>Q. And you are certain that in order to have a Texas driver's license -- if you're a green card holder, waiting for citizenship --</p> <p>A. If you're here legally, you can get a driver's license.</p> <p>Q. Okay. So if someone is legal, if someone is documented?</p> <p>A. Right. But illegal immigrants are not -- or illegal aliens are not going to get it.</p> <p>Q. Sure. But noncitizens can have drivers' licenses, correct?</p> <p>A. Oh, okay. Yes, they can.</p> <p>Q. So SB 14 won't prevent them from voting, right?</p> <p>A. No, not those citizens, but -- I'm sorry, not those people.</p> <p>Q. Yes.</p> <p>A. But it does have the purpose of keeping people</p>	<p style="text-align: center;">148</p> <p>of illegal aliens coming over from Mexico and voting?</p> <p>A. Right. It's not been something that I've observed or I hear a lot of talk of, because I'll be quite honest, if that was to occur, the other camp would say, "Well, we need to do the same thing." And I don't hear that, other than what I described, okay? There was discussion, as I mentioned that, some illegal aliens from the Delta area were taking those slots where people hadn't voted. But I can't confirm that, because I have no personal knowledge. But people have said that to me.</p> <p>Q. But so isn't the fear about in-person impersonation just as unreasonable as the fear about undocumented immigrants voting?</p> <p>A. I will say that it's reasonable, because a large of number of people have it. Do you understand what I mean by that? Now, there are a lot of Texans who believe that, and -- but they don't have the primary experience. They don't have the experience I have being proximate to the border to realize that's not a big problem. But this is -- fears are real, and if people want to address their fears through legislation, that's perfectly legitimate.</p> <p>Q. But is it legitimate to balance people's fears, that are not based on reality, against people's rights that are?</p>

<p style="text-align: center;">153</p> <p>1 invoke it because there, apparently, is a larger 2 principle here, and that is, that by my failing to 3 invoke it could be waived, so I invoke the privilege.</p> <p>4 Q. (By Mr. Freeman) I mean, you've spoken about 5 these issues in public, right?</p> <p>6 A. If you could remind me.</p> <p>7 Q. You have spoken about voter ID in public, 8 right?</p> <p>9 A. I have.</p> <p>10 Q. So, you know, that didn't waive your privilege, 11 right?</p> <p>12 A. What's the question?</p> <p>13 Q. So I'm trying to --</p> <p>14 MR. FREEMAN: You know what, why don't we 15 go off the record for half a second?</p> <p>16 (Discussion off the record from 1:51 17 1:53 p.m.)</p> <p>18 MR. FREEMAN: Back on the record.</p> <p>19 Q. (By Mr. Freeman) Representative Pena, are you 20 familiar with any studies that have concluded that voter 21 turnout among minority communities goes down in the 22 presence of a voter ID law?</p> <p>23 A. Am I presently aware?</p> <p>24 Q. Uh-huh.</p> <p>25 A. No. I mean, I've heard -- in reading articles,</p>	<p style="text-align: center;">155</p> <p>1 says.</p> <p>2 Q. Okay.</p> <p>3 MR. FREEMAN: If we could have this marked 4 as U.S. 373.</p> <p>5 (Exhibit 373 marked for identification.)</p> <p>6 Q. (By Mr. Freeman) And this is a direct quote 7 from you. It's --</p> <p>8 A. Steve miller.</p> <p>9 Q. It's "He told Texas Monthly," beginning one, 10 two, three, four, five -- the sixth paragraph.</p> <p>11 MR. HUGHES: Is there a question?</p> <p>12 Q. (By Mr. Freeman) Do you recall telling Texas 13 Monthly, "If it makes us feel good to pass voter ID, 14 okay, but it's not the solution to the voter fraud 15 that's out there"?</p> <p>16 A. Yeah, I said that, and that's consistent with 17 what I have said before, that is not the dominant form 18 of voter fraud.</p> <p>19 Q. Okay. And so was the most common statement 20 that you heard concerning this bill that its purpose was 21 to combat voter fraud?</p> <p>22 MR. HUGHES: Again, I want to remind you 23 of the legislative privilege issues here.</p> <p>24 Q. (By Mr. Freeman) In a public forum.</p> <p>25 A. Okay. In that you said it that way. Yeah,</p>
<p style="text-align: center;">154</p> <p>1 people may state that, but I don't recall specifically. 2 I don't recall -- I have a vague notion that the 3 argument's been made.</p> <p>4 Q. Okay. Would it be fair to say that there's 5 evidence on both sides?</p> <p>6 A. Yeah. There's always evidence on both sides.</p> <p>7 Q. Representative Pena, do you recall telling the 8 McAllen Monitor that although you weren't opposed to 9 SB 14, you did not think it would address voter fraud?</p> <p>10 A. I don't recall. Let me just say that that 11 sounds like something I'd say, but I don't recall if 12 that specific language is correct.</p> <p>13 MR. FREEMAN: This can be marked U.S. 372. 14 (Exhibit 372 marked for identification.)</p> <p>15 A. Can you tell me which paragraph?</p> <p>16 Q. (By Mr. Freeman) It's in the last paragraph.</p> <p>17 A. The last paragraph?</p> <p>18 Q. The last paragraph of the first page.</p> <p>19 A. Hmm. No. You know, I've always told you the 20 way I see it, and I think what I've said is, it's a good 21 first step. That appears to be the -- Mr. Janes's 22 language. My position is always the same, that it -- 23 you know, in person -- in-person voter fraud, voter 24 impersonation is not the most dominant form of voter 25 fraud. But to answer your question, this is what he</p>	<p style="text-align: center;">156</p> <p>1 that's it.</p> <p>2 Q. But if it isn't going to really solve the voter 3 ID fraud that's out there, there must be some other 4 purpose, right?</p> <p>5 A. I can't say. I just say, you know, look, we 6 all got to start somewhere. And I presented many other 7 bills that addressed many of other problems, and some of 8 them were passed. Some of them were passed by my 9 colleagues. So, we addressed the questions that were in 10 front of us. This one, for some reason, has taken a 11 high profile position.</p> <p>12 Q. Was the purpose of SB 14, in any part, to 13 decrease the number of Hispanic voters who could 14 effectively cast a ballot?</p> <p>15 A. That was not my intention.</p> <p>16 Q. I am not asking about your intention, which I 17 believe is privileged.</p> <p>18 MR. HUGHES: Yes, I'll remind you of the 19 same.</p> <p>20 A. Yeah. I have to say, I saw no evidence of 21 that, okay?</p> <p>22 Q. (By Mr. Freeman) Was the purpose of SB 14, in 23 any part, to discriminate in any way against any group 24 of minority voters?</p> <p>25 MR. HUGHES: The same privilege reminder.</p>

<p style="text-align: center;">157</p> <p>1 A. You know, saw no -- I heard no language that 2 would cause me to infer that. I saw no action that 3 caused me to infer that.</p> <p>4 Q. (By Mr. Freeman) Do you believe in limited 5 government?</p> <p>6 A. Hmm. You're asking me a deep, philosophical 7 question there. Government has its purpose oh, okay? 8 And let us start from the beginning. To defend the 9 country in times of war, and I guess for that same 10 purpose, to develop an interstate transportation system.</p> <p>11 Q. We don't need to go that deep.</p> <p>12 A. Okay.</p> <p>13 Q. Do you believe in government -- do you believe 14 that it is good policy --</p> <p>15 A. Oh, I see.</p> <p>16 Q. -- to have a government that passes legislation 17 that doesn't solve an actual problem?</p> <p>18 A. Oh, I know where you're going with this 19 question. What I believe is, in answering the questions 20 that are presented to me, okay, and so this question was 21 presented to me, and I had to provide a -- I had to make 22 a decision, and I made my decision.</p> <p>23 MR. FREEMAN: I'm going to object to that 24 as nonresponsive. But we'll move on.</p> <p>25 Q. (By Mr. Freeman) Are you familiar with the</p>	<p style="text-align: center;">159</p> <p>1 election laws?</p> <p>2 A. I don't recall. I think it's been mentioned 3 before by somebody, but I don't recall.</p> <p>4 Q. Let's refresh your recollection.</p> <p>5 MR. FREEMAN: If we can mark this as U.S. 6 374. 7 (Exhibit 374 marked for identification.)</p> <p>8 Q. (By Mr. Freeman) Do you see on Page 4, where it 9 says, "Two of them, Representatives Aaron Pena and Larry 10 W. Taylor, sat on the ALEC task force that approved 11 Voter ID model legislation"?</p> <p>12 A. Oh, yes.</p> <p>13 Q. Do you believe that to be the case?</p> <p>14 A. I saw this article, and I was called by a 15 reporter. I don't know if it's the same one. Do I 16 believe? I assume he says I am, that I am.</p> <p>17 Q. Do you remember sitting on that task force?</p> <p>18 A. No.</p> <p>19 Q. Do you remember approving a model voter ID 20 bill?</p> <p>21 A. No.</p> <p>22 Q. Do you remember the contours of the model ID 23 bill that was released by ALEC?</p> <p>24 A. No.</p> <p>25 MR. FREEMAN: I'll have this marked as</p>
<p style="text-align: center;">158</p> <p>1 Federal Help America Vote Act?</p> <p>2 A. Yeah. HAVA.</p> <p>3 Q. Yeah. Are you familiar with the voter 4 identification requirements for first-time voters under 5 HAVA who have registered to vote via a mail-in voter 6 registration form?</p> <p>7 A. Remind me, because I don't recall them.</p> <p>8 Q. Do you recall what ID are sufficient under 9 HAVA?</p> <p>10 A. No, I don't recall.</p> <p>11 Q. Do you recall whether a photo ID is necessary?</p> <p>12 A. I don't recall.</p> <p>13 Q. Are you a member of the American Legislative 14 Exchange Council?</p> <p>15 A. Hmm. I don't know if I am. I have been in the 16 past.</p> <p>17 Q. Okay. And in the past, what was your 18 participation in the American Legislative Exchange 19 Council?</p> <p>20 A. Hmm. I attended their convention. Conference, 21 I believe, is the phrase used today. I received 22 occasional e-mails. I don't know if they're the ones 23 who put out a magazine, but they certainly put out 24 information.</p> <p>25 Q. Did you ever sit on a task force related to</p>	<p style="text-align: center;">160</p> <p>1 U.S. 375. 2 (Exhibit 375 marked for identification.)</p> <p>3 Q. (By Mr. Freeman) Under this bill -- does this 4 look at all familiar to you?</p> <p>5 A. No.</p> <p>6 Q. Under this model bill, what are the forms of 7 proofs of identity that are acceptable?</p> <p>8 A. Okay. Under Exhibit 375, Section 1.A1, it 9 shows the name of the person to whom the document was 10 issued. 2, shows a photograph of the person to whom the 11 document was issued. 3, contains an expiration date and 12 is not expired. 4, is issued by the United States or 13 the State of Arkansas.</p> <p>14 Q. So this is an Arkansas modeled bill, but --</p> <p>15 A. Okay.</p> <p>16 Q. -- it's by the United States or the state; is 17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And do you see under Section 2 C, small 2, is 20 there an exception for indigent voters who may not have 21 an ID?</p> <p>22 A. Yes.</p> <p>23 Q. Are you familiar at all with the Indiana model 24 legislation that you discussed before?</p> <p>25 A. No, not specifically.</p>

<p style="text-align: center;">161</p> <p>1 Q. Are you familiar with the forms of ID that are 2 permissible under the Indiana model legislation? 3 A. No. 4 Q. But you said before that part of the reason 5 that you thought that the Texas bill was legal was that 6 of it was modeled after Indiana, right? 7 A. Yes. 8 Q. But you didn't know if they were actually the 9 same, did you? 10 A. I was -- I was told that they were similar. 11 Q. Okay. This has previously been marked as U.S. 12 Exhibit 60. (Handed to witness.) And this is just one 13 page of Exhibit 60, but it's relevant page. 14 If you could take a quick look at this. 15 A. (Viewing documents.) Okay. 16 Q. Isn't it the case that Indiana allows the use 17 of any state or federal ID with a named photo and 18 expiration date that is unexpired or expired after the 19 last general election -- 20 A. That's what it appears to say. 21 Q. And so that's pretty much the same as the ALEC 22 model legislation, right? 23 MR. HUGHES: Are you making a 24 representation that Exhibit -- 25 MR. FREEMAN: I'm asking if --</p>	<p style="text-align: center;">163</p> <p>1 Q. (By Mr. Freeman) Can you take a quick look at 2 the forms of ID that are acceptable under Section 3 21-2-417 of Georgia code for acceptable voter ID in 4 Georgia? 5 A. Okay. 6 Q. Does it allow the use of an employee ID? 7 A. Yes. 8 Q. Does it allow the use of a tribal ID? 9 A. Yes. 10 Q. Does the Georgia law establish voters' 11 identities? Identities? 12 MR. HUGHES: Based on? 13 Q. (By Mr. Freeman) Based on the use of these 14 documents? 15 A. Yes. 16 Q. Are you aware of a photographic voter 17 identification bill that was introduced in the 81st 18 Texas Legislature in 2009? 19 A. Yes. 20 Q. Was a single bill subject to serious 21 consideration? 22 A. Yes. 23 Q. Who introduced that bill? 24 A. I don't recall. 25 Q. Do you recall why they said they introduced it?</p>
<p style="text-align: center;">162</p> <p>1 MR. HUGHES: -- 375 is the ALEC model? 2 MR. FREEMAN: I am. 3 MR. HUGHES: Because I don't think he ever 4 testified to that. 5 Q. (By Mr. Freeman) Well, it's relatively similar. 6 A. I don't see the -- yeah, relatively similar, 7 yeah. 8 Q. What are the differences? 9 A. That indigent language I don't see here. 10 Q. I'm just asking about the form of ID there. 11 A. Oh. 12 Q. I can represent to you that there's more of the 13 Indiana bill. 14 A. Oh, okay. Yeah, that seems similar. 15 Q. Okay. And does the Indiana law establish an 16 individual's identity with those documents? 17 A. Yes. 18 Q. Okay. Are you familiar with the forms of ID 19 that were permissible under the Georgia photo ID law? 20 A. No. 21 MR. FREEMAN: This has previously been 22 marked as Exhibit 6. U.S. Exhibit 6. 23 MR. HUGHES: This is 6? 24 A. No, I'm not familiar, and I've not that seen 25 this before.</p>	<p style="text-align: center;">164</p> <p>1 A. No. 2 Q. What was your involvement with that bill? 3 A. I voted or didn't vote. 4 Q. Did it pass through the Elections Committee? 5 A. I don't recall, but I assume so. 6 Q. Do you recall whether you voted against it in 7 the Elections Committee? 8 A. I probably voted against it. 9 Q. Do you recall the basic provisions of that 10 bill? 11 A. No. 12 Q. And this has previously been marked as U.S. 13 Exhibit 29. (Handing to witness.) 14 A. Okay. 15 Q. Have you seen this before? 16 A. I can assume that I did. 17 Q. And what forms of identification are allowable 18 under the bill under Section 6 of the bill, if that gets 19 you to the right place? Section 6 and Section 11. 20 A. Where? I'm sorry. It says 6301 -- okay. 21 Amended -- okay. 63.1001A. Do I got to go there? 22 Q. You do. 23 A. Driver's license. Personal ID card issued by 24 the Department of Public Safety that has not expired or 25 expired no earlier than two years before date of the</p>

<p style="text-align: center;">165</p> <p>1 presentation. A United States military ID. A United 2 States citizen's certificate. Passport. Concealed 3 handgun license. A valid ID that contains a person's 4 photograph issued by an agency, institution -- the 5 voter's -- a voter registration certificate.</p> <p>6 Q. And just to be clear, after that -- that first 7 set, one of those is acceptable, in the second set, you 8 need two, correct, under Section 6B-2 back on Page 3?</p> <p>9 A. If you say so. Okay.</p> <p>10 Q. Maybe I'll lead a little bit, and this might 11 get easier.</p> <p>12 A. Okay.</p> <p>13 Q. Isn't it the case that under SB 362, which is 14 Exhibit 29, and the bill that was introduced and 15 considered in 2009, that a voter could offer either, 16 one, driver's license, personal identification card, 17 military identification card, citizenship certificate 18 with a photographic, a passport, license to carry, or 19 any other state or federal ID with a photograph; or two 20 of either a voter registration certificate, current 21 utility bill, bank statement, government check, 22 paycheck, other government document that shows the name 23 and address of the voter, any official mail from the 24 government, a certified birth certificate, United States 25 citizenship papers without a photograph, a marriage</p>	<p style="text-align: center;">167</p> <p>1 but like I said, most of the voter fraud is in other 2 channels of doing this sort of voter fraud. It's not -- 3 in-person impersonation is not as significant in my 4 experience.</p> <p>5 Q. Okay. Did you participate in the chubbing of 6 SB 362?</p> <p>7 A. I don't remember.</p> <p>8 Q. What is chubbing, for Mr. Hughes's benefit?</p> <p>9 A. Chubbing is a phrase that is used in Texas for 10 wasting time at the microphone to delay, for a variety 11 of purposes, for the sole purpose of delay.</p> <p>12 Q. And was chubbing what caused SB 362 to not pass 13 the Texas House?</p> <p>14 A. Yeah.</p> <p>15 Q. Do you recall whether or not you stood at the 16 microphone and participated in the chubbing?</p> <p>17 A. It's not likely that I did.</p> <p>18 Q. Okay. To be honest, I have no idea. I was 19 just asking.</p> <p>20 A. No, I'm not the sort that chubs.</p> <p>21 MR. HUGHES: If we're at a breaking point. 22 MR. FREEMAN: Want to take a break? 23 MR. HUGHES: Yeah. (Recess from 2:16 p.m. to 2:29 p.m.)</p>
<p style="text-align: center;">166</p> <p>1 license, a divorce decree, adoption records, name change 2 or sex change records, public benefits cards, veterans 3 benefits cards, Medicaid cards, Medicare cards, 4 temporary driving permits, pilot's licenses, library 5 cards, or hunting and fishing licenses?</p> <p>6 A. Yes.</p> <p>7 Q. How would this bill have solved any problem 8 related to in-person voter fraud in comparison to 9 current law?</p> <p>10 A. How would it solve it?</p> <p>11 Q. Yes.</p> <p>12 A. I don't understand. You mean --</p> <p>13 Q. What would SB --</p> <p>14 A. -- would it more effective? Less effective? Is 15 that what you mean?</p> <p>16 Q. Yes. What would SB 362 have done, in 17 comparison to current law, to fix voter fraud?</p> <p>18 A. I think we had this discussion before.</p> <p>19 Q. Well, this is a different bill from SB 14.</p> <p>20 This allows you to use different types of documents.</p> <p>21 A. Yeah. Yes.</p> <p>22 Q. And you don't think -- am I correct that you 23 don't think that it would solve any other real types of 24 fraud that happen in your district?</p> <p>25 A. It may stop a few instances that I'm aware of,</p>	<p style="text-align: center;">168</p> <p>1 MR. FREEMAN: Back on the record.</p> <p>2 Q. (By Mr. Freeman) Okay. Back on the record 3 after a break.</p> <p>4 During the committee debate on SB 362, the 5 exhibit in front of you there, Exhibit 29, do you recall 6 telling the McAllen Monitor that you found little to no 7 evidence of voter impersonation and complaining about a 8 lack of opportunity to cross-examine witnesses?</p> <p>9 A. I do remember something to that effect. The 10 lack of cross-examination had to do with a group of 11 witnesses that came up from the Valley.</p> <p>12 Q. Uh-huh.</p> <p>13 A. Uh-huh. And if I remember right, somebody was 14 going to say something, and said, "Well, I surely would 15 like examine them," but they were pulled away.</p> <p>16 Q. Did they submit affidavits instead?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay.</p> <p>19 A. They might have.</p> <p>20 Q. Do you recall telling the Fort Worth Star 21 Telegram that voter ID was bad for Texas, plain and 22 simple?</p> <p>23 A. Did I say that?</p> <p>24 Q. Do you recall saying that?</p> <p>25 A. If you say I said it, then, yes, okay.</p>

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1 Q. Well, let's see if we can refresh your
 2 recollection.
 3 MR. FREEMAN: If we can mark this as U.S.
 4 376.
 5 (Exhibit 376 marked for identification.)
 6 Q. (By Mr. Freeman) This is on Page 2 in the
 7 middle of the page.
 8 A. I don't see it. Oh, Page 2?
 9 Q. Yes.
 10 A. You did say that.
 11 Q. I did.
 12 A. If that's what it says I said.
 13 Q. Did you believe in 2009 that voter ID was bad
 14 for Texas, plain and simple?
 15 A. I don't remember. I'm sorry.
 16 Q. You have no recollection why you opposed a
 17 major bill in the Elections Committee of which you were
 18 the vice chairman?
 19 MR. HUGHES: And I'll remind you of your
 20 legislative privilege concerning, and the question has
 21 been asked and answered.
 22 A. I am not sure the Elections Committee was a
 23 major committee. No, I don't recall.
 24 Q. (By Mr. Freeman) Okay.
 25 A. But I know Dave Montgomery. If he says I said

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1 that, then I may have said that.
 2 Q. It's as good as you can get from Dave
 3 Montgomery?
 4 A. He's a good guy. He's not a somebody who makes
 5 stuff up.
 6 Q. I'm sure he is.
 7 A. Huh?
 8 Q. I'm sure he is. No sarcasm. That's not going
 9 to come across on the record. I'm saying that honestly,
 10 Mr. Montgomery.
 11 Did SB 14 resolve any problems you may
 12 have had with -- you may have publicly commented on with
 13 regard to SB 362?
 14 A. Not that I recall.
 15 Q. Do you recall the basic provisions of SB 362?
 16 A. Other than what you described to me. You need
 17 have a photo ID to vote.
 18 Q. Do you recall the forms of identification that
 19 are allowable under SB 14?
 20 A. If I remember right, a passport and driver's
 21 license, hunting, concealed carry, the so-called free
 22 voter identification card. Did I miss one?
 23 Q. Military ID?
 24 A. Military ID.
 25 Q. And a U.S. citizenship certificate with a

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1 photo?
 2 A. Oh, yeah. You introduced that to me today.
 3 Q. It's in the bill, though, correct?
 4 A. Okay.
 5 Q. All right. Would you like to have a copy of
 6 the bill in front of you?
 7 A. No.
 8 Q. Okay. Now, we previously discussed the list of
 9 ID that can be used under the -- what I represented to
 10 you was the ALEC model legislation. Is this a narrower
 11 list than the ALEC model legislation?
 12 A. Yes.
 13 Q. Is it a narrower list than Indiana?
 14 A. Yes.
 15 Q. Is it a narrower list than Georgia?
 16 A. Yes.
 17 Q. Didn't you earlier testify that each of those
 18 bills would establish identity?
 19 A. That's what the bill said, each of those bills.
 20 Q. Okay. Is it your belief --
 21 A. The legislative language said these are
 22 identification, and then listed them. So that's what
 23 the bill said.
 24 Q. Okay. Is it your belief that the IDs in the
 25 Georgia bill are sufficient to establish a voter's

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1 identity?
 2 A. Okay. That's the policy question that Texas
 3 was given and was made through the various processes we
 4 go through.
 5 Q. Is it your belief that the IDs in the Georgia
 6 bill establish a person's identity when they show up to
 7 vote?
 8 A. Okay. I will say that I have reservations
 9 about employee identifications, employee or agencies of
 10 the government, as we described, I would like there to
 11 be some security in the identification. So if your
 12 question is asking me: Are those sufficient
 13 identifications, that's a policy question Texas was
 14 confronted with. I personally don't find that internal
 15 office IDs, college IDs are sufficient. I like there to
 16 be some safeguards.
 17 Q. And your basis for saying that they're not
 18 sufficient?
 19 A. Is a judgment that I make.
 20 Q. And as the security features?
 21 A. Yeah. Yes. I'm sorry. I said "Yeah." I read
 22 -- okay. Yes.
 23 Q. But you said previously that -- sorry, strike
 24 that.
 25 Is Indiana as racially diverse as Texas?

<p style="text-align: center;">173</p> <p>1 A. You know, I don't know. All I know about 2 Indiana is Abraham Lincoln's history there. 3 Q. That's Illinois, I believe. 4 A. No, he started Indiana, and then he moved 5 across. But I don't know much more. I mean, I've to be 6 Illinois. I'm sorry. I know it's humorous, but Texas 7 has three major ethnic groups. Three major -- well, 8 okay. Hispanic is not a -- is an ethic group, not a 9 racial group. We have whites. We have African 10 Americans, and we have Hispanics. Those are the major 11 groups here. Now, I don't know if it's more diverse or 12 not -- 13 Q. You don't know? 14 A. -- to answer you question. I don't know. 15 Q. Are you familiar with the Supreme Court's 16 decision of <i>Crawford v. Marion County Board of Elections</i>?</p> <p>17 A. Refresh my memory. I don't -- 18 Q. The Supreme Court decision concerning voter ID? 19 A. No. 20 Q. Is it possible that the factual circumstances 21 in Texas are different from the factual circumstances in 22 Indiana, with regard to race and poverty, access to IDs, 23 et cetera? 24 A. I'm sure there are factual distinctions that</p>	<p style="text-align: center;">175</p> <p>1 A. No. 2 Q. And hasn't he signed off on objections to voter 3 ID bills in only Texas and South Carolina? 4 A. I don't know that. 5 Q. Would you describe Texas as being a state that 6 is in contention in the 2012 election? 7 A. No, but it has a heavy Hispanic population. 8 Okay. Look, you're asking -- okay. I still maintain 9 that it was it was a political -- a blatantly political 10 decision. 11 Q. And I'm just curious -- 12 A. I don't know why he came to Austin to give that 13 speech. He seems to be making a point of it. The 14 administration seems to be making a point of this, and I 15 think it's to create a wedge issue between Hispanics and 16 the conservative movement. 17 Q. Did you ever have any conversations concerning 18 aspects of SB 14 that were different from SB 362? 19 MR. HUGHES: And I want to, again, caution 20 you on the legislative privilege, and ask if we could 21 get the question rephrased to remove the obvious concern 22 here that you're asking about potential conversations 23 that are subject to the legislative privilege. 24 Q. (By Mr. Freeman) Did you ever have any 25 conversations concerning the substance of SB 14 prior --</p>
<p style="text-align: center;">174</p> <p>1 could be raised. 2 Q. Okay. Do you recall telling the McAllen 3 Monitor that the Attorney General's decision to deny 4 preclearance of SB 14 was blatantly political? 5 A. What? I'm sorry. Which Attorney General? 6 Q. The Attorney General of the United States. 7 A. Oh, yes. 8 Q. The defendant in this case. 9 A. Okay. Yes. I do recall that. I'm sorry. 10 It's because Attorney General Abbott and I have a very 11 close relationship, and I know him quite well, and I 12 know his wife, and it's just not like me to talk that 13 way about him. But as to Mr. Holder, yeah, that was 14 political. He -- he is -- okay. To answer the 15 question, yes, I remember. 16 Q. What was the basis for that statement? 17 A. He has made this issue a seemingly campaign 18 issue, where he goes around the country, and he seems to 19 be whipping up support for him. That's perfectly good 20 and fine. As an American citizen, he can do it. But 21 that being so close to the election, when the swing 22 states involved are places like Colorado and some of the 23 western states, where there's a high Hispanic 24 percentage, seems to me to be blatantly political. 25 Q. Is Eric Holder an elected official?</p>	<p style="text-align: center;">176</p> <p>1 specifically that bill, what would be in that bill? Is 2 that sufficiently broad? 3 A. "I don't recall" is the answer. 4 Q. You solved all our problems. Thank you. 5 What was the purpose of omitting student 6 IDs from SB 14? 7 A. I don't know what -- 8 MR. HUGHES: And again, I'll give you the 9 legislative privilege caution that you can talk about 10 the purpose of the bill as a whole, but not individual 11 legislative intent. On that basis, you can answer. 12 A. All right. I've stated -- I don't know what 13 other people were thinking, okay, and I am not the one 14 who omitted it. But I find that there are not enough 15 security, levels of security in student identification 16 cards. 17 Q. (By Mr. Freeman) How about tribal ID? 18 A. What about it? 19 Q. What was the purpose the omitting tribal ID? 20 A. I don't know. 21 MR. HUGHES: The same instruction. 22 A. I don't know. It was in my -- it wasn't my 23 choice to remove or not put that in there. 24 Q. (By Mr. Freeman) What does the term 25 "legislative emergency" mean within the Texas</p>

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1 Legislature?
 2 A. Oh, is this -- is this the Governor's call for
 3 a legislative emergency? Is that what you're talking
 4 about?
 5 Q. Uh-huh.
 6 A. It doesn't mean what it says, okay? It is a
 7 misnomer, in that what it means is that this a priority
 8 to him rather than an emergency, okay? So people always
 9 -- newspapers love to make a point of the fact that this
 10 language doesn't match with the purpose that it's
 11 there. It is not an emergency; it's simply a priority
 12 to the Governor.
 13 Q. Are there any constraints on what the Governor
 14 may declare to be a quote, unquote emergency?
 15 A. I guess political constraints.
 16 Q. But not substantive, not legal constraints?
 17 A. Not that I'm aware of.
 18 Q. Okay. Was photographic voter identification
 19 declared to be a legislative emergency?
 20 A. Yeah, I assume that that language, legislative
 21 emergency, must be the Constitution or somewhere,
 22 because it keeps being raised. Yes, it was -- it was
 23 declared an emergency.
 24 Q. Just to take a quick step back, you said that
 25 there are political constraints. What did you mean by

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1 that?
 2 A. Well, like I said, every time that there is --
 3 well, first of all, internally within his -- within his
 4 support, he shouldn't raise something that he doesn't
 5 have political support for, like abolishing the death
 6 penalty is a good example, or legalizing cocaine.
 7 That's a -- you know, he's got his own constraints.
 8 The other thing would be having to put up
 9 with what the press does every time that he declares
 10 something a legislative emergency. The press will say,
 11 you know, he'll declare -- let's use an example -- that
 12 this is Bugs Bunny's hundredth birthday, and we're going
 13 to do -- we're going to have a -- he's got to put up
 14 with people picking on him for saying that. Those are
 15 the only sort of limitations. He's otherwise free to do
 16 as he pleases.
 17 Q. Are there any particular individuals within the
 18 Governor's Office of which you're aware who are
 19 responsible for setting out the declarations of
 20 legislative emergencies?
 21 A. No, not that I'm aware of. I can take guesses,
 22 but I'm not going to do that.
 23 Q. Were you a part of any conversations concerning
 24 what would be declared a legislative emergency in 2011?
 25 MR. HUGHES: I'm going to instruct --

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1 them. Let me make my objections, but we can move on.
 2 MR. FREEMAN: You're going to obstruct --
 3 instruct? Sorry, that was a Freudian slip there.
 4 Let me try and make it a little broader,
 5 then, and avoid the instruction.
 6 Q. (By Mr. Freeman) Are you aware of any
 7 conversations concerning legislative emergencies that
 8 occurred in early 2011?
 9 MR. HUGHES: And again, I'm going to
 10 caution you on legislative privilege not to reveal
 11 legislatively-privileged conversations between
 12 legislators or between legislators and legislative staff
 13 or between legislators and members of the Governor's
 14 Office.
 15 A. I'm not.
 16 Q. (By Mr. Freeman) Are you aware of any documents
 17 relating to the subject of legislative emergencies that
 18 were circulated at the beginning of 2011 or any e-mail?
 19 MR. HUGHES: The same precaution.
 20 A. After the fact is publicly made --
 21 Q. (By Mr. Freeman) Yeah.
 22 A. -- we typically get a form on the Floor, and it
 23 says the Governor is hereby proclaimed whatever.
 24 Q. Okay. That's all?
 25 A. Sometimes they read it into the record on the

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1 Floor. I don't recall if the caucus put anything out.
 2 Q. Anything else?
 3 A. No, not that I can recall.
 4 Q. Is there any election set to occur in Texas
 5 during the session or early in the session?
 6 A. Forgive me. I don't remember.
 7 Q. Of which you're aware?
 8 A. Yeah, maybe you could help refresh my memory
 9 I don't remember one.
 10 Q. Okay. Do you have any other understanding of
 11 why voter ID would be a legislative emergency?
 12 A. Because the public wanted it.
 13 Q. Are you aware of any conversation concerning
 14 SB 14 that occurred before it was submitted for
 15 consideration in the Senate?
 16 MR. HUGHES: And again, I'm going to
 17 instruct you that if you can just answer it yes or no,
 18 then we're not going to get into the legislative
 19 privilege problem.
 20 A. No, I'm not aware of anything.
 21 Q. (By Mr. Freeman) What constituents did you
 22 speak with concerning SB 14?
 23 A. My staff.
 24 Q. Any lobbyists?
 25 A. No. Lobbyists usually don't care about stuff

<p style="text-align: center;">181</p> <p>1 like that.</p> <p>2 Q. Any interest groups?</p> <p>3 A. Not me personally. Interest groups may have</p> <p>4 called in to the office.</p> <p>5 Q. Anyone stop by your office to talk about the</p> <p>6 bill?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did Catherine Engelbrecht ever stop by your</p> <p>9 office?</p> <p>10 A. I don't know who that is.</p> <p>11 Q. Did Paul Bettencourt ever stop by your office?</p> <p>12 A. You know, I've heard that name Paul</p> <p>13 Bettencourt. Is he a Valley person?</p> <p>14 Q. I'll represent to you that he is not, that he's</p> <p>15 from Harris County.</p> <p>16 A. Okay. Forgive me. I recognize the name, but I</p> <p>17 don't know who they are and I can't put a face to it.</p> <p>18 Q. Okay. So he didn't stop by your office?</p> <p>19 A. Oh, I don't know.</p> <p>20 Q. Did you speak directly with any experts</p> <p>21 concerning SB 14?</p> <p>22 A. In committee.</p> <p>23 Q. Did you speak directly with any representatives</p> <p>24 of minority groups?</p> <p>25 A. My staff. Oh, forgive me. You mean organized.</p>	<p style="text-align: center;">183</p> <p>1 Q. Okay.</p> <p>2 A. Not that I have a -- actually, I was a member</p> <p>3 of the GI Forum. Don't have any objection to them. Bu</p> <p>4 t they're not as organized as you may think, okay?</p> <p>5 They're out there, but they're not -- they don't have a</p> <p>6 legislative person. They have individuals who come by</p> <p>7 and see you. LULAC is a very diverse group, in that</p> <p>8 each -- they each have individual districts or chapters,</p> <p>9 and they all speak differently. You know, the State is</p> <p>10 the only who speaks with a coherent position.</p> <p>11 So, I'll have LULAC members back home, and</p> <p>12 they'll have -- they'll say whatever they personally</p> <p>13 feel, but then the State will come down with a</p> <p>14 position. MALC, they tend to have a progressive</p> <p>15 position on things. I give consideration to MALDEF</p> <p>16 probably more than other groups.</p> <p>17 Q. Did any suggestions made by MALDEF or any of</p> <p>18 these other groups find their way into the final bill as</p> <p>19 passed?</p> <p>20 A. I don't recall. Like I said, what I do recall</p> <p>21 is that some of these organized groups took positions</p> <p>22 against the bill.</p> <p>23 Q. Did DPS or SOS ever provide you with an</p> <p>24 analysis what voters possessed the identification</p> <p>25 required by SB 14?</p>
<p style="text-align: center;">182</p> <p>1 Q. I mean organized minority groups, yeah.</p> <p>2 A. In committee.</p> <p>3 Q. No one came by your office?</p> <p>4 A. They may have. They would speak to my staff,</p> <p>5 I'm sure.</p> <p>6 Q. Did you speak with anyone at any public events?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Do you recall whether any minority groups</p> <p>9 advocated for particular changes in the bill?</p> <p>10 A. Look, I'm aware of MALDEF's position, and</p> <p>11 they're always involved in the subject area. And I'm</p> <p>12 aware of like the ACLU. They're always involved in the</p> <p>13 question. I got lost from the question. What was it?</p> <p>14 Q. Are you aware of any minority groups who</p> <p>15 particularly advocated for any particular changes to</p> <p>16 SB 14?</p> <p>17 A. You know, most of it was, "We just don't like</p> <p>18 it." Okay? But I don't recall changes.</p> <p>19 Q. So they were just urging you to vote against</p> <p>20 it?</p> <p>21 A. No. The groups that I mentioned, MALDEF,</p> <p>22 LULAC.</p> <p>23 Q. GI Forum?</p> <p>24 A. GI Forum. Well, okay. GI Forum, I don't talk</p> <p>25 with.</p>	<p style="text-align: center;">184</p> <p>1 MR. HUGHES: And I'm going to caution you</p> <p>2 on legislative privilege not to reveal any nonpublic</p> <p>3 communications that you had with legislators,</p> <p>4 legislative staff, or DPS or SOS.</p> <p>5 A. Not that I recall.</p> <p>6 Q. (By Mr. Freeman) Do you recall when SB 14 was</p> <p>7 filed in the Senate?</p> <p>8 A. No. Go ahead. I'm going to grab some water.</p> <p>9 MR. FREEMAN: Let's take a break a two-</p> <p>10 minute break. Off the record.</p> <p>11 (Recess from 2:53 to 3:02 p.m.)</p> <p>12 Q. (By Mr. Freeman) Are you aware of any</p> <p>13 conversations that occurred concerning who would sponsor</p> <p>14 SB 14 in the House? Yes or no?</p> <p>15 A. Yes.</p> <p>16 Q. When did those conversations occur?</p> <p>17 A. Before it came out.</p> <p>18 Q. Who was present?</p> <p>19 A. I don't know. I don't remember that.</p> <p>20 Q. Were you a part of those conversations?</p> <p>21 A. I heard. Heard.</p> <p>22 Q. So you're aware of the conversation?</p> <p>23 A. I'm aware of the conversation. I wasn't</p> <p>24 there. In other words, they hit my ears through a third</p> <p>25 person.</p>

<p style="text-align: center;">185</p> <p>1 Q. When did you sign onto SB 14 as a sponsor? 2 A. After it was filed. Sometime shortly 3 thereafter.</p> <p>4 Q. What was your role as the third-named sponsor? 5 A. I think my role was that I was -- I was giving 6 my blessing to the legislation. That's the way I saw 7 it. In other words, that I was satisfied that it ought 8 to be passed.</p> <p>9 Q. Are you aware of when the Select Committee on 10 Voter ID Identification and Voter Fraud began 11 considering SB 14?</p> <p>12 A. No.</p> <p>13 Q. If it was a legislative emergency, was it early 14 in the session?</p> <p>15 A. We all knew, all the way up until the session 16 before, that it was coming up.</p> <p>17 Q. Okay.</p> <p>18 A. That's the reason before the session started, I 19 was able to say, "This session, I'm supporting that 20 bill."</p> <p>21 Q. What's the emergency calendar?</p> <p>22 A. That designation allows you to be put up at the 23 front of the line rather than waiting in line like 24 everybody else does.</p> <p>25 Q. And is that controlled by the Calendar</p>	<p style="text-align: center;">187</p> <p>1 the Conference Committee, because it's a free -- you 2 have a free ride to try to get in or get out whatever it 3 is you want.</p> <p>4 Q. Regardless of whether it had been in or out in 5 either bill; it's not just resolving the differences?</p> <p>6 A. Right. Right. In other words, it's -- if 7 you're not paying attention, your whole bill could be 8 stripped and totally reversed in Conference Committee.</p> <p>9 Q. Okay. To your knowledge has the Secretary of 10 State or any local election official enforced SB 14 at 11 all?</p> <p>12 A. No.</p> <p>13 Q. Are you aware of any reports of confusion about 14 whether the bill is in effect?</p> <p>15 A. I saw on the Internet somebody say that they 16 were speaking at a black church to tell people that it 17 was not enforced. This was out of Houston or somewhere. 18 Just in my various readings, I scanned it, I saw it, and 19 that was it.</p> <p>20 Q. Anything else?</p> <p>21 A. Not that I can recall.</p> <p>22 Q. And we touched on this a little already, but 23 who are the main opponents of SB 14?</p> <p>24 A. Democrats.</p> <p>25 Q. Anyone in particular?</p>
<p style="text-align: center;">186</p> <p>1 Committee?</p> <p>2 A. Oh, I'm sorry. No, I think that -- well, I 3 don't know where that comes from, but the understanding 4 is that it always goes first.</p> <p>5 Q. Okay.</p> <p>6 A. There must be some rule or maybe Calendars 7 Committee decides that.</p> <p>8 Q. Are you aware of any changes that were 9 introduced to SB 14 in Conference Committee that had not 10 been in the version of the bill that passed either 11 House?</p> <p>12 A. Yes.</p> <p>13 Q. What changes occurred?</p> <p>14 A. If I remember, they took out the senior citizen 15 exemption, if I remember correctly. You can confirm 16 that with me.</p> <p>17 Q. Can you name any other instance when changes 18 like that were made?</p> <p>19 A. No, I can't. What do you mean by that? You 20 mean in other bills?</p> <p>21 Q. Other bills where a change was made in 22 conference that hadn't been in either the Senate or 23 House version?</p> <p>24 A. Oh, no, that happens. Look, Conference 25 Committee, that's the reason everybody wants to be on</p>	<p style="text-align: center;">188</p> <p>1 A. Progressives, organized groups that are part of 2 the Democratic coalition.</p> <p>3 Q. Any particular legislators?</p> <p>4 A. That are against it?</p> <p>5 Q. Uh-huh.</p> <p>6 A. Rafael Anchia is somebody I served with who has 7 been a vocal opponent of it.</p> <p>8 Q. Anyone else?</p> <p>9 A. I guess Trey Fischer Martinez. He's always got 10 an objection to everything that Republicans present.</p> <p>11 MR. GARZA: Now, now, now.</p> <p>12 A. That's just a little fun, okay?</p> <p>13 Q. (By Mr. Freeman) We're going to run to Trey, 14 and we're going to tell on you.</p> <p>15 A. He'll just say, you know, something derogatory 16 towards me. That's okay. (Laughing)</p> <p>17 Q. We're all friends here.</p> <p>18 Anyhow, did any of your constituents 19 express opposition to the bill?</p> <p>20 A. Hmm. Activist Democrats on the Internet.</p> <p>21 Q. Anyone who lived in your district?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Were there any election officials who told you 24 that it wasn't necessary?</p> <p>25 A. My colleagues from the Valley, the Democratic</p>

<p style="text-align: center;">189</p> <p>1 colleagues from the Valley.</p> <p>2 Q. Did the county judge of Hidalgo County express</p> <p>3 opposition?</p> <p>4 A. I would assume he'd be opposed to it. He's a</p> <p>5 Democratic loyalist.</p> <p>6 Q. Why was he opposed to it?</p> <p>7 MR. HUGHES: It calls for speculation.</p> <p>8 Q. (By Mr. Freeman) If you're aware?</p> <p>9 A. It's his natural orientation, philosophical</p> <p>10 orientation.</p> <p>11 Q. Was there substance to the opposition of which</p> <p>12 you were aware?</p> <p>13 A. Substance? All the arguments you've made today</p> <p>14 would be echoed and embraced by some of the Democratic</p> <p>15 activists from back home, including the county judge.</p> <p>16 Q. Representative Pena, I've only asked questions.</p> <p>17 A. The inferences that are made within your</p> <p>18 questions, then.</p> <p>19 No, back home -- okay. I better shut up,</p> <p>20 because I'm just going to chatter on, and y'all have to</p> <p>21 get on.</p> <p>22 Q. You have interesting things to say, and we have</p> <p>23 seven hours to talk.</p> <p>24 A. No. No. Keep going.</p> <p>25 MR. HUGHES: Just answer the questions.</p>	<p style="text-align: center;">191</p> <p>1 A. Not that I recall.</p> <p>2 Q. Have you ever made any public statements about</p> <p>3 on the subject of whether SB 14 might disproportionately</p> <p>4 impact Hispanic voters?</p> <p>5 MR. HUGHES: Can you ask that one again?</p> <p>6 Q. (By Mr. Freeman) Have you made any public</p> <p>7 statements about on the subject of whether SB 14 might</p> <p>8 disproportionately impact Hispanic voters?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Do you recall telling Governing Magazine,</p> <p>11 quote, "This is not racial at all. It's the mark of</p> <p>12 desperation when they constantly bring up these things"?</p> <p>13 A. Did I say that?</p> <p>14 Q. Do you recall saying that?</p> <p>15 A. No, I don't recall.</p> <p>16 Q. I don't want to put words in your mouth, but</p> <p>17 I'm happy to put it in front of you.</p> <p>18 A. I trust you. If you say that I said that.</p> <p>19 THE WITNESS: Can I say something off the</p> <p>20 record? Do we have permission from you to say something</p> <p>21 off the record?</p> <p>22 MR. FREEMAN: There is a question</p> <p>23 pending.</p> <p>24 MR. HUGHES: Let's --</p> <p>25 THE WITNESS: Okay. I don't need to say</p>
<p style="text-align: center;">190</p> <p>1 A. Keep going.</p> <p>2 Q. (By Mr. Freeman) Are the concerns that other --</p> <p>3 the Hispanic-elected officials who you named, your two</p> <p>4 colleagues who you named who are also both Hispanic, are</p> <p>5 the reasons for their opposition that they expressed</p> <p>6 similar to the concerns that you once held about the</p> <p>7 bill?</p> <p>8 MR. HUGHES: And I'm going to remind you</p> <p>9 about the legislative privilege and not to disclose, you</p> <p>10 know, off-the-record communications between you and</p> <p>11 other legislators or legislative staff or your own</p> <p>12 impression, mental impressions, thoughts, or opinions</p> <p>13 about the legislation.</p> <p>14 A. I don't know.</p> <p>15 Q. (By Mr. Freeman) Did you make any public</p> <p>16 statements about other legislators' opposition or other</p> <p>17 groups' oppositions other than what we've discussed</p> <p>18 today?</p> <p>19 A. I don't understand the question.</p> <p>20 Q. Did you ever -- so, for example, you made</p> <p>21 public statements in favor of the bill. You made a</p> <p>22 public statement that you believe the Attorney General</p> <p>23 of the United States's opposition is political. Are</p> <p>24 there any other public statements that you've made</p> <p>25 concerning the arguments against SB 14?</p>	<p style="text-align: center;">192</p> <p>1 it. It was just a commentary. I shouldn't say it.</p> <p>2 MR. FREEMAN: If we can mark this 377.</p> <p>3 (Exhibit 377 marked for identification.)</p> <p>4 MR. HUGHES: Do you have a question in</p> <p>5 particular?</p> <p>6 MR. FREEMAN: There is a question pending</p> <p>7 of whether he recalls saying to Governing Magazine --</p> <p>8 Q. (By Mr. Freeman) Whether you recall saying,</p> <p>9 "This is not racial at all. It's the mark of</p> <p>10 desperation when they just constantly bring up these</p> <p>11 things"?</p> <p>12 A. Can you tell me where that is?</p> <p>13 Q. I'm sorry.</p> <p>14 MR. HUGHES: It's at the very bottom. The</p> <p>15 very end of the second page.</p> <p>16 A. Oh, okay. (Viewing document.) I don't recall,</p> <p>17 okay? I'm quite serious. I don't recall, but if he</p> <p>18 wrote it down, I suspect that it's more true than not.</p> <p>19 Q. (By Mr. Freeman) Okay.</p> <p>20 A. This is a publication I trust.</p> <p>21 Q. Okay. But you testified earlier that you</p> <p>22 didn't look at whether this facially-neutral law would</p> <p>23 have a discriminatory impact, did you?</p> <p>24 A. Well, I considered that.</p> <p>25 Q. But you didn't look to see whether it was more</p>

<p style="text-align: center;">193</p> <p>1 likely or less likely that Hispanic voters would lack 2 the necessary ID, did you? 3 A. No, I considered that.</p> <p>4 Q. Did you look at the statistics about who had 5 the ID?</p> <p>6 A. Somebody presented those, but I don't -- I 7 don't recall specifically.</p> <p>8 Q. Now, you used to -- you used to litigate 9 employment --</p> <p>10 A. Yes.</p> <p>11 Q. -- issues, right?</p> <p>12 A. Yes.</p> <p>13 Q. And you're familiar with the idea that 14 sometimes a facially-neutral policy can have a 15 discriminatory effect, correct?</p> <p>16 A. I'm aware of that.</p> <p>17 Q. But you think that in this case, this facially- 18 neutral policy, regardless of whether Hispanics had -- 19 were less likely to have ID, that it was desperation to 20 bring up whether it would have a discriminatory effect?</p> <p>21 A. I'm aware that the Supreme Court of the United 22 States looked at a similar law and found it to be 23 constitutional.</p> <p>24 Q. Are you aware of whether the Supreme Court of 25 the United States considered at all whether Indiana's</p>	<p style="text-align: center;">195</p> <p>1 frustrating. Everything is racial. It's just 2 desperation, and it's very frustrating to have 3 everything be racial. Why wasn't I invited to this 4 meeting? Oh, it must be racial. Why did he get a 5 parking spot? It must be racial. And you get tired of 6 it after a point. And quite -- well, I'm not 7 going to just get on a soapbox. But it's just 8 frustrating that everything is racial, when we have -- 9 leaders of our community have to get past that element 10 of human behavior, where we see each other as 11 different. It is frustrating. And so I can only assume 12 that I'm speaking out of frustration. I'm sick and 13 tired of hearing that everything is racial.</p> <p>14 Q. At any point, did you have any conversations 15 about a Floor debate for SB 14?</p> <p>16 MR. HUGHES: Again, I'm going to instruct 17 on legislative privilege not to reveal off-the-record 18 conversations with other legislators, legislative staff, 19 or members of any government agency.</p> <p>20 A. Outside of the legislative privilege, I don't 21 recall any.</p> <p>22 Q. (By Mr. Freeman) No, I'm just asking yes or no 23 if you recall them. And in terms of not disclosing the 24 content, you can tell me yes or no.</p> <p>25 MR. HUGHES: You can answer that.</p>
<p style="text-align: center;">194</p> <p>1 law would have a disparate impact? 2 A. I can only assume that the argument was made. 3 I mean, if you assume that lawyers of that caliber that 4 get cases to that point make every argument they can to 5 win, I assume it was made. 6 Q. So you're not aware? 7 A. I'm not aware. But I can assume, okay, that 8 good lawyers would have made that argument. If it goes 9 to the Supreme Court of the United States, I would 10 assume they made the argument.</p> <p>11 Q. And if you were to learn that they did not, if 12 you were to learn that that was just a due process case 13 that didn't address disparate impact on minority groups, 14 would that make you think differently about whether 15 SB 14 was problematic in terms of its racial impact? 16 A. You know, it's not relevant because we're 17 talking about now. I've already voted. 18 Q. But in terms of whether it's a mark of 19 desperation to bring up a racial impact, in terms of 20 that -- 21 A. Well, I think what I was referring to here, 22 assuming that I said it, was that almost every time we 23 bring up a bill that the progressives do not like, they 24 raise the racial argument and it waters down the 25 occasions when it really needs to be raised, and it gets</p>	<p style="text-align: center;">196</p> <p>1 A. Yes, I do recall. 2 Q. (By Mr. Freeman) Who did you have those 3 conversations with? 4 A. Aliseda. 5 Q. Anyone else? 6 A. Not that I recall. 7 Q. When did that conversation occur? 8 A. Right before he got up to speak, I said, "I'll 9 ask you questions." 10 Q. You didn't need to tell me that -- 11 A. I'm sorry, okay. 12 Q. -- but I don't think that you ruined your 13 counsel's case. 14 A. Okay. 15 Q. Okay. I am going to put in front of you what 16 has previously marked as Exhibit 9, which is the House 17 Journal from the day of the debate. And we're just 18 going to have a whirlwind tour of a couple of the 19 amendments. 20 Whirlwind, Mr. Hughes. 21 MR. HUGHES: Whirlwinds. 22 Q. (By Mr. Freeman) And if you could turn to 23 Page 969. 24 A. Okay. 25 Q. And Amendment 15.</p>

<p style="text-align: center;">197</p> <p>1 A. Yes.</p> <p>2 Q. And this amendment would have prohibited fees</p> <p>3 for the underlying documents necessary to receive any</p> <p>4 form of proof of identification under SB 14, correct?</p> <p>5 A. I'm sorry. State it again.</p> <p>6 Q. This amendment would have prohibited fees for</p> <p>7 the underlying documents necessary for an ID needed to</p> <p>8 vote under SB 14, correct?</p> <p>9 A. Okay. Yes.</p> <p>10 Q. What was the purpose of this amendment?</p> <p>11 A. I don't know. I mean, what was the purpose</p> <p>12 behind Mr. Martinez filing the amendment?</p> <p>13 Q. What was the purpose of the amendment? Had the</p> <p>14 amendment been a separate piece of legislation, what was</p> <p>15 the purpose of the amendment?</p> <p>16 MR. HUGHES: I'll object that it calls for</p> <p>17 speculation and remind you of the legislative privilege</p> <p>18 instruction.</p> <p>19 MR. FREEMAN: Mr. Hughes, I believe that</p> <p>20 this is the same functionally as asking the purpose of a</p> <p>21 piece of legislation.</p> <p>22 A. I can -- all I can do is read, and then make an</p> <p>23 assumption, okay, that the language has a purpose.</p> <p>24 Q. (By Mr. Freeman) And you voted to table this</p> <p>25 amendment, correct? You can see on page 970?</p>	<p style="text-align: center;">199</p> <p>1 Q. But you didn't vote against any aspect of the</p> <p>2 bill on the basis that it included military IDs, right,</p> <p>3 despite your lack of awareness of the security features</p> <p>4 of a military ID?</p> <p>5 A. I served in the military forces, and I know</p> <p>6 they are very careful in the presentation of their ID,</p> <p>7 in preparation of it. I can only assume that the United</p> <p>8 States Army or Marines or other branches must have more</p> <p>9 heightened security levels.</p> <p>10 Q. What about the Veterans Administration?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. You can turn to Amendment 34 on Page</p> <p>13 987.</p> <p>14 MR. HUGHES: 987?</p> <p>15 MR. FREEMAN: 987.</p> <p>16 Q. (By Mr. Freeman) Amendment 34 would have</p> <p>17 rendered the act unenforceable if it didn't comply with</p> <p>18 Section 5, Section 203, or Section 4(f)(4) of the Voting</p> <p>19 Rights Act, correct?</p> <p>20 A. That's what it says.</p> <p>21 Q. When you voted to table this amendment, what</p> <p>22 was your understanding of the purpose of the amendment</p> <p>23 or what is current understanding of the purpose the</p> <p>24 amendment, if that --</p> <p>25 A. Well, it speaks for what it wants to do. But</p>
<p style="text-align: center;">198</p> <p>1 A. Okay. I assume. If Mr. Trey Fischer Martinez</p> <p>2 gets up, it's more than likely I'm going to move to</p> <p>3 table.</p> <p>4 Q. And as we discussed above, do you believe that</p> <p>5 a cost for a document necessary to get an ID is a part</p> <p>6 of the cost of getting the document?</p> <p>7 MR. HUGHES: Asked and answered. But you</p> <p>8 can still answer it again.</p> <p>9 A. The free ID is free.</p> <p>10 Q. (By Mr. Freeman) If you'd turn to Amendment 23</p> <p>11 on Page 979. Is it the case that Amendment 23 would</p> <p>12 have added a student identification card issued by a</p> <p>13 public or private high school or institution of higher</p> <p>14 education that contains a photograph?</p> <p>15 A. That's what it looks like it says.</p> <p>16 Q. But you voted to table this amendment, correct?</p> <p>17 A. Right. I have previously stated to you that I</p> <p>18 don't think there are enough security protocols in a</p> <p>19 high school ID.</p> <p>20 Q. Are you aware of the security protocols in a</p> <p>21 military ID?</p> <p>22 A. No, but I trust that they are significant.</p> <p>23 Q. Does a military ID include a military</p> <p>24 employment ID for outside contractors, are you aware?</p> <p>25 A. No, I don't know.</p>	<p style="text-align: center;">200</p> <p>1 let me explain that when a bill has been hashed out by</p> <p>2 the majority and has been debated within that majority</p> <p>3 coalition --</p> <p>4 Q. Uh-huh.</p> <p>5 A. -- one of the strategies to defeat a bill is to</p> <p>6 load it up with amendments. And what the author</p> <p>7 typically says, or what we understand is, stay with the</p> <p>8 bill, we've worked hard on it this far, let's just get</p> <p>9 it through. And so you can have perfectly good</p> <p>10 amendments that sound perfectly well and reasonable, but</p> <p>11 because we've already hashed out the bill, and we've</p> <p>12 already negotiated it, you simply want to get it</p> <p>13 through.</p> <p>14 Q. Aren't most of the Representatives in the</p> <p>15 minority communities in Texas not a part of that</p> <p>16 majority coalition?</p> <p>17 A. No, they're represented there. I mean, it has</p> <p>18 a color of skin that you want.</p> <p>19 Q. Aren't most Representatives who are preferred</p> <p>20 candidates of minority voters not a part of the majority</p> <p>21 coalition?</p> <p>22 A. I don't like that term, "preferred</p> <p>23 candidates." I was the preferred candidate for my</p> <p>24 district, and then I switched parties, and all of a</p> <p>25 sudden I was unpreferred. That doesn't make sense.</p>

<p style="text-align: center;">201</p> <p>1 Sometimes y'all get lost in the legalese and common 2 sense goes out the door.</p> <p>3 Q. Well, let's -- let's -- outside of your unique 4 circumstances, with regard to the candidates who were 5 voted -- who were voted for by minority voters, aren't 6 most of those legislators outside of the majority 7 coalition?</p> <p>8 A. I think that those people tried try their best 9 to represent those people. I think that the minority 10 voters -- that these other people try their best to 11 represent them. Now, maybe their experiences are a 12 little different, but nothing is perfect. Everybody 13 tries to do their best.</p> <p>14 Q. Okay. I will repeat my question, because I 15 believe you haven't answered it.</p> <p>16 Aren't most the Representatives who are 17 elected by voters who are minorities not in the majority 18 coalition?</p> <p>19 A. Understanding what you intend to say and your 20 meaning behind those words, I think you're right.</p> <p>21 Q. Isn't the opportunity for those --</p> <p>22 A. But I don't agree that that -- with the 23 judgment that I think you're making.</p> <p>24 Q. My question is intended only to rest on 25 empirical facts, and as long as we are sharing the same</p>	<p style="text-align: center;">203</p> <p>1 If you look to Page 1009 to 1010, 2 Amendment 50. And Amendment 50 would have reimbursed 3 poor individuals for the costs necessary to travel to 4 get an ID, right?</p> <p>5 A. Yeah. That's what it says.</p> <p>6 Q. And what's your understanding of the purpose of 7 this amendment?</p> <p>8 A. I can only assume. Richard filed this as a -- 9 well, because it sounds good, but it makes the 10 legislation unworkable or burdensome.</p> <p>11 Q. Burden some on whom?</p> <p>12 A. In its implementation.</p> <p>13 Q. On whom?</p> <p>14 A. On the state.</p> <p>15 Q. Is it better to place the burden on the state 16 than on the poor voter?</p> <p>17 A. Under these circumstances, no. And that's why 18 I probably moved to table it or I moved --</p> <p>19 Q. You voted to table it.</p> <p>20 A. Voted to table.</p> <p>21 Q. Correct? Yes?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Isn't it true that the majority of -- 24 pardon me. Isn't it true that members of racial or 25 language minority groups in Texas are far more likely to</p>
<p style="text-align: center;">202</p> <p>1 understanding of the meaning of those facts in terms of 2 voting patterns, not in term of theories of 3 representation, is that something we can agree on?</p> <p>4 A. Okay.</p> <p>5 Q. Okay. Isn't the amendment process the 6 opportunity that those Representatives outside of the 7 majority coalition -- isn't that their opportunity to 8 effect and shape a bill?</p> <p>9 A. That's what it should be. Unfortunately, it's 10 become a weapon used by the minority, not minorities, 11 but the minority coalition, to delay and chub and try to 12 derail the process. It's a legitimate strategy. Kind 13 like at the end of a football game when people try to 14 run out the clock, it is an acceptable strategy.</p> <p>15 But so is it acceptable for the majority 16 to say, "We're not taking any amendments. This is what 17 we want. We already have the votes." And this is such 18 a long-held discussion on a question, everybody had 19 their mind made up. So, when things come up like, you 20 know, let's salute George Washington and something 21 really good, you know, everybody can agree to, we're 22 going to turn it down, because it's just an attempt to 23 delay the process.</p> <p>24 Q. Okay. Then let's just through a couple more 25 amendments very quickly.</p>	<p style="text-align: center;">204</p> <p>1 live below the federal poverty line than Anglos?</p> <p>2 A. Yeah. I've said that. That's likely true, 3 because of the history that we've gone through.</p> <p>4 Q. And a lot of people in your district are poor, 5 as we've discussed, right?</p> <p>6 A. Yes, they are.</p> <p>7 Q. And so didn't voting to table this amendment 8 choose to place the burden that this amendment 9 recognizes on those poor people in your district rather 10 than on the state?</p> <p>11 A. What I know is that the Supreme Court of the 12 United States has interpreted this law, in some 13 variation of the one presented in Texas, to be not 14 overly burdensome.</p> <p>15 Q. My question was your understanding of whether 16 it was placing that burden on poor voters rather than on 17 the state, not the Supreme Court's --</p> <p>18 A. I don't think it's one or the other. I think 19 there's a balancing test, and we, the policy deciders, 20 made a choice, and I was comfortable in that choice.</p> <p>21 Because previously, the United States Supreme Court has 22 said that some version of this bill was acceptable and 23 not overly burdensome.</p> <p>24 Q. Can you turn to 1015, Amendment 54. Take a 25 look at that real quick. And this amendment would have</p>

<p style="text-align: center;">205</p> <p>1 -- are you ready?</p> <p>2 A. Yes, I'm ready.</p> <p>3 Q. And this amendment would have required the</p> <p>4 Secretary of State to determine who was prevented from</p> <p>5 voting and who filed provisional ballots that were not</p> <p>6 counted according to racial group, right?</p> <p>7 A. Yes, that's what it looks like it says.</p> <p>8 Q. And you voted to table that amendment, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Is there something going on behind my head?</p> <p>11 A. There's like two military helicopters flying</p> <p>12 over. It's not a common sight. It's common in</p> <p>13 San Antonio, but not here.</p> <p>14 (Pausing for helicopter noise.)</p> <p>15 They're looking for you. Either that or</p> <p>16 Eric Holder is landing.</p> <p>17 (Laughter)</p> <p>18 Q. I don't know how Eric Holder travels.</p> <p>19 A. That was a joke, for the record.</p> <p>20 Q. I know, yes.</p> <p>21 A. Okay.</p> <p>22 Q. Oh, I'm sure the record knows too.</p> <p>23 Anyhow, let's just take a step back.</p> <p>24 Amendment 54, isn't it the case that it</p> <p>25 would have required the Secretary of State to determine</p>	<p style="text-align: center;">207</p> <p>1 to be accepted. As with the many previous other</p> <p>2 amendments, it was an attempt to make political -- to</p> <p>3 create a political advantage for the newspapers or I</p> <p>4 guess in this litigation. So he probably wasn't</p> <p>5 thinking of this litigation, but any opportunity to</p> <p>6 embarrass the majority,</p> <p>7 MR. FREEMAN: Can we go off the record for</p> <p>8 a minute?</p> <p>9 MR. HUGHES: Yes.</p> <p>10 (Recess from 3:35 a.m. to 3:41 p.m..)</p> <p>11 MR. FREEMAN: We are back on the record.</p> <p>12 Q. (By Mr. Freeman) Very quickly, I can guess what</p> <p>13 your response is going to be, but if I can very quickly</p> <p>14 just go through it. Can you look at Amendment 55 on</p> <p>15 page 1016. Can you take a look real quickly?</p> <p>16 A. Yes.</p> <p>17 Q. Amendment 55 would have required the Secretary</p> <p>18 State to determine whether the majority of voters</p> <p>19 casting provisional ballots did so because they lacked</p> <p>20 photo ID were minority, and if that were the case, to</p> <p>21 allow them to use voter registration certificates,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. What was the purpose this amendment?</p> <p>25 MR. HUGHES: Again, I would just caution</p>
<p style="text-align: center;">206</p> <p>1 who was prevented from voting and who filed provisional</p> <p>2 ballots that were not counted according to demographics?</p> <p>3 A. Yes, that's right.</p> <p>4 Q. And you voted to table that, correct?</p> <p>5 A. Yeah. Again, as I said, the question had been</p> <p>6 decided, amendments were -- are usually filed of this</p> <p>7 nature when the minority coalition knows that it's going</p> <p>8 to lose, to embarrass the majority by offering something</p> <p>9 that's apple pie and sounds good, but has not been part</p> <p>10 of the previously-negotiated bill. So yeah, I voted</p> <p>11 against it.</p> <p>12 Q. Would it concern you if Hispanic voters were</p> <p>13 disproportionately showing up at polling places and</p> <p>14 turned away because they didn't have the -- not turned</p> <p>15 away, but voted a provisional ballot that didn't count</p> <p>16 because Hispanic voters didn't have the ID?</p> <p>17 A. Would it concern me?</p> <p>18 Q. Uh-huh.</p> <p>19 A. It would be something that I'd want to know.</p> <p>20 Q. Well, if it was something you wanted to know,</p> <p>21 why did you vote against the amendment that precisely</p> <p>22 would have given you that information?</p> <p>23 A. I told you. It's because we had previously</p> <p>24 negotiated the bill. This -- Representative Alvarado</p> <p>25 knew full well this bill, this amendment was not going</p>	<p style="text-align: center;">208</p> <p>1 you on the legislative privilege. Under the court's</p> <p>2 order, you can talk about the general purpose, but not</p> <p>3 individual --</p> <p>4 A. I assume the purpose was what it says.</p> <p>5 Q. (By Mr. Freeman) And you voted to table this,</p> <p>6 correct?</p> <p>7 A. Yes, for the same reasons I've described</p> <p>8 before.</p> <p>9 Q. Okay. And Amendment 58 on Page 1021. This</p> <p>10 would have -- I'll let you take a look real quickly</p> <p>11 first.</p> <p>12 A. Go ahead.</p> <p>13 Q. This would have required a study by county and</p> <p>14 ethnicity of access to the necessary photo ID, along</p> <p>15 with an analysis of the potential impact on voter</p> <p>16 turnout, right?</p> <p>17 A. Okay.</p> <p>18 Q. What was the purpose of the amendment?</p> <p>19 MR. HUGHES: The same caution.</p> <p>20 A. The same thing; whatever it says, that's what</p> <p>21 the purpose was. But I voted to table, I'm sure, for</p> <p>22 the same reason, that many of these amendments were put</p> <p>23 up simply to delay the process, to add to a bill that</p> <p>24 had been hashed out, where the votes were already known</p> <p>25 and we had a long-standing argument going on for years,</p>

<p style="text-align: center;">209</p> <p>1 and we finally wanted to get it over with.</p> <p>2 Q. Okay. Do freshman frequently provide the</p> <p>3 closing remarks after a debate on a major bill?</p> <p>4 A. They can.</p> <p>5 Q. Are there any other instances that you're aware</p> <p>6 of, where a freshman delivered closing remarks on a</p> <p>7 major bill?</p> <p>8 A. I did.</p> <p>9 Q. When was that?</p> <p>10 A. On the budget.</p> <p>11 Q. In 2001 or 2003?</p> <p>12 A. Yeah. Are you aware of it?</p> <p>13 Q. I'm asking. I don't know.</p> <p>14 A. That was like my main speech, so I remember it.</p> <p>15 Q. Okay. Are you aware of any conversations</p> <p>16 concerning who would deliver the closing remarks</p> <p>17 considering SB 14?</p> <p>18 MR. HUGHES: The same legislative</p> <p>19 privilege instruction.</p> <p>20 Q. (By Mr. Freeman) Yes or no.</p> <p>21 MR. HUGHES: Yeah, you can answer yes or</p> <p>22 no.</p> <p>23 A. No. No. I don't know.</p> <p>24 Q. (By Mr. Freeman) Okay. And did you move to</p> <p>25 have Representative Aliseda's closing remarks printed in</p>	<p style="text-align: center;">211</p> <p>1 ethnic groups. Well, he's from Mexico, for God's sakes,</p> <p>2 and he became an American citizen. And so that attack</p> <p>3 couldn't be made to him. The fact that he was a</p> <p>4 prosecutor and prosecuted these very similar cases was</p> <p>5 important. And so his remarks embodied the conservative</p> <p>6 perspective, and certainly the conservative Hispanic</p> <p>7 perspective. And so I was -- I assumed I was moved to</p> <p>8 put it in record so that it could be remembered.</p> <p>9 Q. And you just mentioned that Representative</p> <p>10 Aliseda prosecuted voter fraud cases. Are you aware of</p> <p>11 whether he ever prosecuted a case related to in-person</p> <p>12 voter impersonation?</p> <p>13 A. No, I don't know.</p> <p>14 Q. Okay. Are you aware that when Representative</p> <p>15 Larry Gonzales was deposed in this case just yesterday,</p> <p>16 he was not carrying a photographic voter ID -- or a</p> <p>17 photographic ID?</p> <p>18 A. He wasn't? He didn't?</p> <p>19 Q. No.</p> <p>20 A. No, that doesn't surprise me. Look, the only</p> <p>21 reason I have my wallet is because I've got to go to the</p> <p>22 airport. Otherwise, I don't like to carry anything.</p> <p>23 It's too burdensome. Too burdensome and too fat, and</p> <p>24 I'm fat enough as it is.</p> <p>25 Q. Do you still believe ID is necessary to do</p>
<p style="text-align: center;">210</p> <p>1 record?</p> <p>2 A. Is that what the record says?</p> <p>3 Q. You can look at --</p> <p>4 A. Yes. Yes, I did.</p> <p>5 Q. -- on Page 1031.</p> <p>6 A. Yes, I did.</p> <p>7 Q. Okay.</p> <p>8 A. Representative -- yes, I did.</p> <p>9 Q. Did you agree with Representative Aliseda's</p> <p>10 remarks?</p> <p>11 A. Very good. He captured the spirit of what many</p> <p>12 of us feel. Look, we are Hispanic and very proud to be</p> <p>13 of that culture. I'm from the area. My ancestors go</p> <p>14 back to the founding soldiers who came to colonize the</p> <p>15 area. And Aliseda is the same way. We simply have a</p> <p>16 difference of opinion that's not racial in nature. We</p> <p>17 want to clean up voter fraud. We see a lot of it where</p> <p>18 we live. It's unfair that politicians are enriched and</p> <p>19 when poor people are having to pay that tax. I</p> <p>20 sincerely feel that way, and he sincerely feels that</p> <p>21 way.</p> <p>22 Representative Aliseda is a person born in</p> <p>23 Mexico. The common refrain is, "Well, you're not</p> <p>24 Mexican enough. You're not really a Mexican." That's</p> <p>25 what Mexican Americans say to each other, as do other</p>	<p style="text-align: center;">212</p> <p>1 everything in our society?</p> <p>2 A. Increasingly, it's becoming that way. And</p> <p>3 increasingly, it is -- I think the general public has</p> <p>4 come to accept these inconveniences.</p> <p>5 Like coming in this office, for example, I</p> <p>6 cannot ever imagine a law firm, you have to get</p> <p>7 permission to enter the door. But increasingly, our</p> <p>8 society has these limitations or security measures that</p> <p>9 are set up. I love the way that we used to travel, just</p> <p>10 jumping on the plane. But we live in a different world</p> <p>11 and people are demanding more security. Increasingly,</p> <p>12 there are ways to corrupt the system, and people want</p> <p>13 solutions. And so yes. Yes to your question.</p> <p>14 Q. If Representative Aliseda prosecuted only</p> <p>15 issues that did not relate to voter impersonation and if</p> <p>16 the issues in your district did not relate to voter</p> <p>17 impersonation, but related more to voter assistance,</p> <p>18 mail-in vote harvesting and the like, won't this bill</p> <p>19 just give them a false sense of confidence, the voters,</p> <p>20 that the problem has been fixed?</p> <p>21 A. No, they'll know it's not been fixed, because</p> <p>22 it's growing where I'm at. Look, we had -- like I said,</p> <p>23 I had 88 complaints, 88 or 81, come into my office the</p> <p>24 other day. We had elections that were essentially</p> <p>25 bought by assisted voting. You have complaints that</p>

<p style="text-align: center;">213</p> <p>1 were filed recently from the City of Hidalgo. It's 2 running rampant where I live. And I come from a 3 Hispanic community, and those people want honest 4 elections. And that's why I sincerely come here and 5 have advocated for that position. And voter ID was a 6 starting point, okay? It's not the final solution, as 7 I've stated many times.</p> <p>8 Q. And that's actually a delightful segue. 9 Did you introduce any other bills, in the 10 82nd Legislature, regarding election administration?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know how many?</p> <p>13 A. I can guess around 30.</p> <p>14 Q. Around 30? Wow.</p> <p>15 A. Is it more?</p> <p>16 Q. Not quite.</p> <p>17 MR. FREEMAN: This is the last major 18 subject, Mr. Hughes. You don't need to stretch like 19 that.</p> <p>20 A. I will take your -- whatever you tell me it is, 21 that's what it is.</p> <p>22 Q. (By Mr. Freeman) Well, let's just real quickly 23 mark this is as U.S. Exhibit 378. It's a couple of your 24 blog posts.</p> <p>25 (Exhibit 378 marked for identification.)</p>	<p style="text-align: center;">215</p> <p>1 Q. I do. 2 A. Wow. How in the world do you find all this 3 stuff? 4 MR. FREEMAN: Can I have this marked as 5 U.S. 379. 6 (Exhibit 379 marked for identification.) 7 A. And even I know, this must be television. Not 8 radio, okay? Did you get that? It is television. 9 Yeah, so that's the reason I don't recall. But do I 10 recall television. 11 Q. (By Mr. Freeman) Okay. And do you see on Page 12 3, the last paragraph? 13 A. 3. 14 Q. Do you recall saying, "The Speaker of the House 15 has made this a priority when he created the Voter Fraud 16 Committee and the Voter ID Voter Fraud Committee"?</p> <p>17 A. Okay. I see that. 18 Q. And do you see in context that you were 19 referring to the mail-in segment, as you say in the 20 second paragraph on that same page? 21 A. I think I was jumping around. I was talking 22 about voter assistance. So I cannot say if that's what 23 -- that's not the limited context. 24 Q. Okay. But you were saying that fraud and the 25 issues that you were raising was priority, and the</p>
<p style="text-align: center;">214</p> <p>1 A. I'll tell you what. Let me just say: This is 2 why getting on the Internet and saying things is not -- 3 because you're going to be cross-examined about them. 4 But go ahead.</p> <p>5 Q. (By Mr. Freeman) There is nothing negative 6 about what you posted here.</p> <p>7 A. No, I agree. These are probably a list of 8 bills that I filed.</p> <p>9 Q. Indeed they are. Well, let me ask you: Did 10 you make these blog posts?</p> <p>11 A. Yeah. I remember -- I remember putting a thing 12 like this up, yes. I can't imagine that you -- that 13 it's fraudulently made. I assume it's true.</p> <p>14 Q. Is this your blog?</p> <p>15 A. Yes, it is.</p> <p>16 Q. Okay. Are there 19 bills listed here that 17 you --</p> <p>18 A. I trust your representation.</p> <p>19 Q. Do you recall saying during an interview with 20 KXAN that the Speaker had made issues concerning mail-in 21 ballot fraud a priority when he created the Select 22 Committee on Voter Identification and Voter Fraud?</p> <p>23 A. I don't recall. KXAN is not a radio station 24 I'm regularly -- I'm on. So I don't recall. If you 25 have that transcript, I'd love to read it.</p>	<p style="text-align: center;">216</p> <p>1 Speaker made it a priority when he created the Select 2 Committee on voter impersonation and voter fraud? 3 A. Yeah. That was my opinion, yes. 4 Q. But the 19 bills that you sponsored, none of 5 them were referred to the Select Committee; is that 6 correct? 7 A. You know, I remember they didn't all go to the 8 same committee. I think it's more than 19. But that's 9 the Speaker's prerogative. 10 Q. I apologize if I missed some. 11 A. Yeah, you missed some. But let me just say 12 that that's the Speaker's prerogative. I mean, he 13 doesn't have to say yes to everything I ask for. And 14 sometimes he has reason to send them somewhere else, and 15 somebody, either he or a chief of staff or a legislator 16 or a director made that decision, and so be it. 17 Q. And so in fact, the only bill that the voter 18 impersonation and voter fraud committee addressed didn't 19 address real world voter fraud, right? 20 A. Well, there are other reasons that there was 21 only one bill, and I touched on those briefly, but I 22 don't think I want to get into it. 23 Q. Okay. And you're not going to get into it on 24 the basis of legislative privilege, just so the record 25 is clear?</p>

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1 A. Yes. It had to do --
 2 MR. HUGHES: Again, caution you on the
 3 legislative privilege.
 4 A. Oh, okay. Look, as to my communications with
 5 other people that would explain the reasons why the
 6 committee didn't go forward with the legislation is a
 7 communication with other legislators and protected by
 8 the privilege.
 9 Q. (By Mr. Freeman) Now, if we could jump back to
 10 that article from Governing Magazine.
 11 A. Okay. I've got it.
 12 Q. And can you remind me what exhibit number that
 13 is, if that's on your copy?
 14 A. 377.
 15 Q. 377. Thank you.
 16 Do you see where you said here that many
 17 people who complained about the lack of voter confidence
 18 were unwilling to attach their names to bills that
 19 address real corruption?
 20 A. Yeah.
 21 Q. Why did you make that statement?
 22 A. Where I live, everybody knows that it goes on,
 23 but no legislator is likely to stand up for it because
 24 he's going against the beast that gets him elected.
 25 Being a member of the opposing party makes it easy for

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1 Q. Or excuse me. Died in committee or died in
 2 committee in either the House or the Senate?
 3 A. I did attach some of them as amendments to
 4 other bills. But, yes. That's true.
 5 Q. Would you agree that prioritizing photographic
 6 voter ID ignored real practical concerns about election
 7 integrity?
 8 A. Many people don't have the experience that I
 9 have down there, okay? They don't live with the day to
 10 day. It's not a -- you know, Dallas is beginning to
 11 experience it, and Laredo is beginning to experience
 12 it. It's like a cancer that's growing. And I'm not
 13 sure they understand the priorities.
 14 During the debate, many times I would say,
 15 "Hey, look, this is -- there's other kinds of voter
 16 fraud, and we need to deal with it." And people, I
 17 could tell, they were -- there was a novelty. Novelty
 18 is not right. It was a surprise to them.
 19 So I think these are well-meaning people;
 20 they just don't have the daily experience like I do, or
 21 other people along the border do, where we have a well-
 22 honed system of corruption going back to the boss era at
 23 the turn of the last century.
 24 Q. Now, you told Governing Magazine that the
 25 strength of SB 14 was it's a symbol that the legislature

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1 me to do that, but I did it anyway as a Democrat. But
 2 I'm freer to do it because the machine -- well, they
 3 were already coming after me, and so was the system, the
 4 politiqueras and everybody else, they wanted to
 5 eliminate me for speaking against their system.
 6 Q. But what about the people who aren't from South
 7 Texas but who are concerned about voter confidence, the
 8 main people speaking in favor of this bill, why, with
 9 regard to those people would complained about the lack
 10 of voter confidence, as you said in this article, why
 11 did you say in this article that those people were
 12 unwilling to attach their names to bills that address
 13 real corruption?
 14 A. Did I say specifically say other people?
 15 Q. You said -- you said, "Many people who complain
 16 about the lack of voter confidence."
 17 A. Yes.
 18 Q. Were you referring only to people in South
 19 Texas when you made that statement?
 20 A. Oh, I don't remember what I was referring
 21 to. A long time ago.
 22 Q. Isn't it the case that about the 19 bills
 23 listed on the -- on your website in that post, that 18
 24 of them died in committee?
 25 A. If you say so, but...

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1 was beginning to address corruption, correct?
 2 A. Yes.
 3 Q. But in the last legislature, it was pretty much
 4 the end as well, right?
 5 A. Well, it's the end because I'm not there, but
 6 others will the carry -- look, we've had a redistricting
 7 battle and I was one of the victims of that, and
 8 hopefully, somebody else will carry the banner. And I
 9 hope that other Hispanics have the courage to speak up
 10 for their own communities, that it doesn't have to be
 11 imposed on them without their involvement.
 12 MR. FREEMAN: All right. If we can just
 13 take a couple of minutes, I think I'm just about done.
 14 MR. HUGHES: Off the record.
 15 MR. FREEMAN: Let's go off the record.
 16 (Recess from 3:59 p.m. to 4:00 p.m.)
 17 MR. FREEMAN: Okay. Back on the record.
 18 Q. (By Mr. Freeman) Are you aware that you were
 19 designated as a person with knowledge and a likely
 20 witness by the State of Texas in this case?
 21 MR. HUGHES: I'm not sure I agree with
 22 that characterization. I think the first part is right.
 23 MR. FREEMAN: I'll withdraw my question
 24 and rephrase it.
 25 Q. (By Mr. Freeman) Are you aware that you were

<p style="text-align: center;">221</p> <p>1 designated by the State of Texas as a person with 2 knowledge of the issues and claims in this case? 3 A. You mean a designation that I could potentially 4 be a witness? 5 Q. Yes? 6 A. I was informed about that in either this case 7 or in the last case. 8 Q. If you were you called to testify in D.C., what 9 would your anticipated testimony be? 10 A. I would answer the questions that I was given, 11 just as I've answered them to you. I think you have a 12 gist of what I feel, and we have a slight difference of 13 opinion, but I think we want to achieve the same goal. 14 You want fair elections and I want fair elections. We 15 just disagree on how to get there. 16 Q. Okay. Are there any answers that you wish to 17 change from today? 18 A. I can't recall any. 19 Q. Is there any information that you didn't recall 20 previously that you recall now? 21 A. No, I can't recall any. 22 MR. FREEMAN: So I'm just going to state 23 for the record that this deposition is left open pending 24 any decisions concerning privilege over testimony and 25 documents. And with that, I pass the witness to</p>	<p style="text-align: center;">223</p> <p>1 Texas. 2 Q. Uh-huh. And you specifically mentioned, you 3 know, the La Joya-Sullivan City area and the Delta area 4 on the east? 5 A. Yes. 6 Q. And generally, those are areas that are away 7 from McAllen, which is the most urban of the -- 8 A. That's correct. 9 Q. Okay. And in McAllen is where you have some 10 viable public transportation? 11 A. Yes. 12 Q. Okay. But not in the other parts of the 13 county, correct? 14 A. I'm not aware of any, okay? There may be a 15 system that, since I don't live there, I'm not aware of 16 it. It would surprise me, because the market is not 17 there. There's not a market for regular transportation. 18 Q. All right. And Cameron County and Willacy 19 County and Starr County have similar socioeconomic 20 characteristics as Hidalgo County; that is, there are a 21 lot of poor people? 22 A. Yes. 23 Q. And there are a lot of brown people? 24 A. Yes. So you would find public transportation 25 probably in the Brownsville-Harlingen region, but in the</p>
<p style="text-align: center;">222</p> <p>1 Mr. Garza. 2 MR. GARZA: I just have a few questions. 3 EXAMINATION 4 BY MR. GARZA: 5 Q. You were -- in earlier testimony from 6 Mr. Freeman, you were talking about the lack of public 7 transportation in the region that you represent. Do you 8 recall that? 9 A. Yes. 10 Q. Now, Hidalgo County is part of a bigger, 11 generally referred to area as the Rio Grande Valley; is 12 that correct? 13 A. Yes. 14 Q. And that encompass a number of counties along 15 the border, is that correct? 16 A. Yes. 17 Q. Cameron County, Starr County on the east and 18 west of Hidalgo? 19 A. Yes. 20 Q. Any other counties? 21 A. Willacy County. 22 Q. Willacy County. And in that general area, 23 would you agree with me that there is a lack of public 24 transportation? 25 A. By urban standards, yes. Urban standards of</p>	<p style="text-align: center;">224</p> <p>1 surrounding regions, you would not have the -- I'm not 2 aware of any public transportation. There may be some 3 informal transportation that I simply don't know about. 4 Q. Right. 5 A. But that's generally correct. 6 Q. And would you also agree with me in the Rio 7 Grande Valley area that we've talked about, there is a 8 higher incidence of drivers without liability 9 insurance -- 10 A. Yes. 11 Q. -- than in other parts of the state? 12 A. Yes. 13 Q. And would you agree with me that that is, in 14 large part, due to economic reasons? 15 A. Yes. 16 Q. People can't afford to buy automobile 17 insurance? 18 A. Absolutely. 19 Q. And without automobile insurance, you are not 20 eligible to secure a driver's licenses in Texas; isn't 21 that correct? 22 A. Hmm. I know you can't get your license 23 plates. I'm not sure. If you say so. 24 Q. Okay. 25 A. It's been a while since I've got my license.</p>

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1 Q. Do you know, as an attorney and dealing with
 2 the legal problems of people in the Valley -- and when I
 3 say the Valley, I'm talking about the Rio Grande Valley
 4 -- that there is a problem with motorists involved with
 5 automobile accidents, who don't have insurance, having
 6 their licenses suspended?

7 A. Yes.

8 Q. Okay.

9 A. And because we're one of the more poorer
 10 regions, I would assume that we have high incidences of
 11 people without insurance.

12 Q. Okay.

13 A. Higher percentages of that.

14 MR. GARZA: I don't have any other
 15 questions.

16 MR. HUGHES: Nor do I.

17 THE WITNESS: God bless you all.

18 MR. HUGHES: Thank you so much.

19 (Signature reserved.)

20 (Deposition concluded at 4:06 p.m.)

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1 CHANGES AND SIGNATURE

2 RE: TEXAS VS. HOLDER, ET AL

3 PAGE LINE CHANGE REASON

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19 _____

20 I, REPRESENTATIVE AARON PENA, have read the
 21 foregoing deposition and hereby affix my signature that
 22 same is true and correct, except as noted above.

23 _____

24 _____

25 REPRESENTATIVE AARON PENA

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1 THE STATE OF _____
 2 COUNTY OF _____

3
 4 Before me, _____, on this day
 5 personally appeared REPRESENTATIVE AARON PENA, known to
 6 me (or proved to me under oath or
 7 through _____ (description of identity
 8 card or other document) to be the person whose name is
 9 subscribed to the foregoing instrument and acknowledged
 10 to me that they executed the same for the purposes and
 11 consideration therein expressed.

12 Given under my hand and seal of office
 13 this _____ day of _____, 2012.

14
 15
 16 NOTARY PUBLIC IN AND FOR
 17 THE STATE OF _____

1
 2 IN THE UNITED STATES DISTRICT COURT
 3 FOR THE DISTRICT OF COLUMBIA

4 STATE OF TEXAS,)
 5 Plaintiff,)
 6 VS.)
 7 ERIC H. HOLDER, JR. in his)
 8 official capacity as Attorney)
 9 General of the United States,)
 10 Defendant,)
 11 ERIC KENNIE, et al,)
 12 Defendant-Intervenors,)
 13 TEXAS STATE CONFERENCE OF) CASE NO. 1:12-CV-00128
 14 NAACP BRANCHES,) (RMC-DST-Rlw)
 15) Three-Judge Court
 16 Defendant-Intervenors,)
 17 TEXAS LEAGUE OF YOUNG VOTERS)
 18 EDUCATION FUND, et al,)
 19 Defendant-Intervenors,)
 20 TEXAS LEGISLATIVE BLACK)
 21 CAUCUS, et al,)
 22 Defendant-Intervenors,)
 23 VICTORIA RODRIGUEZ, et al.,)
 24 Defendant-Intervenors.)
 25 REPORTER'S CERTIFICATION
 DEPOSITION OF REPRESENTATIVE AARON PENA
 JUNE 1, 2012
 I, Chris Carpenter, Certified Shorthand Reporter in
 and for the State of Texas, hereby certify to the
 following:
 That the witness, REPRESENTATIVE AARON PENA, was

<p style="text-align: center;">1</p> <p>IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA</p> <p>STATE OF TEXAS,) Plaintiff,) VS.) ERIC H. HOLDER, JR. in his) official capacity as Attorney) General of the United States,) Defendant,) ERIC KENNIE, et al.,) Defendant-Intervenors,) TEXAS STATE CONFERENCE OF) CASE NO. 1:12-CV-00128 NAACP BRANCHES,) (RMC-DST-RLW) Three-Judge Court Defendant-Intervenors,) TEXAS LEAGUE OF YOUNG VOTERS) EDUCATION FUND, et al.,) Defendant-Intervenors,) TEXAS LEGISLATIVE BLACK) CAUCUS, et al.,) Defendant-Intervenors,) VICTORIA RODRIGUEZ, et al.,) Defendant-Intervenors. ***** ORAL DEPOSITION OF REPRESENTATIVE AARON PENA JUNE 1, 2012 *****</p>	<p style="text-align: center;">3</p> <p>APPEARANCES FOR THE PLAINTIFF, STATE OF TEXAS: John M. Hughes BARTLT BECK HERMAN PALENCHAR & SCOTT, LLP 1899 Wynkoop Street Suite 800 Denver, CO 80202 (303) 592-3113 john.hughes@bartlit-beck.com Brooke Paup OFFICE OF THE ATTORNEY GENERAL OF TEXAS P.O. Box 12548 Austin, TX 78711-2548 209 West 14th Street 8th Floor Austin, TX 78701 (512) 936-1307 patrick.sweeten@texasattorneygeneral.gov FOR THE DEFENDANT, HOLDER, ET AL: Daniel Freeman Risa Berkower U.S. DEPARTMENT OF JUSTICE 950 Pennsylvania Avenue, NW NW - Room 7202 Washington, DC 20530 (202) 305-7766 daniel.freeman@usdoj.gov FOR THE DEFENDANT-INTERVENOR TEXAS STATE CONFERENCE OF NAACP BRANCHES AND THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: Ezra D. Rosenberg DECHEART, LLP Suite 500 902 Carnegie Center Princeton, NJ 08540-6531 (609) 955-3200 ezra.rosenberg@dechert.com</p>
<p style="text-align: center;">2</p> <p>1 ORAL DEPOSITION OF REPRESENTATIVE AARON PENA 2 produced as a witness at the instance of the Defendant, 3 was duly sworn, was taken in the above-styled and 4 numbered cause on the JUNE 1, 2012, from 9:45 a.m. to 5 4:06 p.m., before Chris Carpenter, CSR, in and for the 6 State of Texas, reported by machine shorthand, at the 7 offices of DECHERT, LLP, 300 W. 6th Street, Suite 2010, 8 Austin, Texas 78701, pursuant to the Federal Rules of 9 Civil Procedure and the provisions stated on the record 10 or attached hereto.</p> <p>11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: center;">4</p> <p>1 FOR THE MEXICAN AMERICAN LEGISLATIVE CAUCUS: 2 Jose Garza LAW OFFICE OF JOSE GARZA 3 7414 Robin Rest Drive San Antonio, TX 787209 4 (210) 392-2856 garzpalm@aol.com 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>

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<p style="text-align: center;">6</p> <p>THE REPORTER: Time on the record 9:45.</p> <p>Could everybody here make announcements and your affiliations.</p> <p>MR. FREEMAN: Sure. My name is Dan Freeman on behalf of the Attorney General.</p> <p>MS. BERKOWER: Risa Berkower for the Attorney General.</p> <p>MR. GARZA: Jose Garza for the Mexican American Legislative Caucus.</p> <p>MS. PAUP: Brooke Paup for the State.</p> <p>MR. HUGHES: John Hughes for the State of Texas.</p> <p>MR. FREEMAN: And this is the deposition of Representative Aaron Pena in matter of Texas v. Holder, U.S. District Court for the District of Columbia, Docket Number 1:12-CV-128.</p> <p>REPRESENTATIVE AARON PENA, having been first duly sworn to testify the truth, the whole truth, and nothing but the truth, testified as follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. FREEMAN:</p> <p>Q. We have introduced ourselves. I want to say congratulations on being in the New York Times this morning, Representative.</p>	<p style="text-align: center;">8</p> <p>until we have finished up with the question we're going through, that's great. There's water and coffee to your right.</p> <p>If you want to talk your attorney, again, that's also fine. But if there's a question pending or if you're in the middle of an answer, I'll ask you to finish that question up first. Is that okay?</p> <p>A. Yes.</p> <p>Q. At various points, your attorney may object to a question I ask. Many of these objections can be resolved by the court at a later time. Therefore, unless your attorney specifically directs you not to answer, I'll ask you to please respond to my question fully. Is that okay?</p> <p>A. Yes.</p> <p>Q. Sometimes your attorney may instruct you not to rely on certain information when answering a question. If you follow that instruction, please answer accordingly by preceding your answer by saying, "Based on that instruction." And if you follow that instruction and cannot, as a result, answer at all, please tell me, "I cannot answer based on any attorney's instruction." That way, we'll sort of understand the basis for your answer or nonanswer. Is that okay?</p> <p>A. I will try to remember what you have suggested.</p>																																																				

<p style="text-align: center;">33</p> <p>1 committee that oversees the Department of Public Safety. 2 Q. Okay. 3 A. And I was in his office one day looking at 4 videos. He was kind of a fun guy to be around, and he 5 said, "Check out my driver's license. It's got a really 6 cool number," like, as an example, 007. And I said, 7 "Wow, how did you do that?" He says, "Well, I'm the 8 chairman of the committee." And I said, "Could I have 9 one like that?" And he said, "Sure. What number do you 10 want?" And I said, "Well, how about my birthday?" He 11 said, "Okay, I'll call over there and see if we can get 12 you one with your birthday on it." And so my driver's 13 license number is like my month and my year of birth. 14 Q. Did you -- did you go to a specific office, or 15 was it done for you? 16 A. It was done for me. 17 Q. So how did they get your picture? 18 A. I don't know. 19 Q. Do you know the -- when was the last time that 20 you went to a driver's license office to renew your 21 driver's license? 22 A. I don't remember. 23 Q. Do you know where the closest driver's license 24 office is to your home in Edinburg? 25 A. Sure.</p>	<p style="text-align: center;">35</p> <p>1 Q. My BlackBerry is right in front of me. 2 A. Right. 3 Q. So you don't remember the last time you went to 4 that office, though, correct? 5 A. To the driver's license? 6 Q. Uh-huh? 7 A. I went recently, because my daughter needed her 8 driver's license. 9 Q. Oh, okay. And what time of day did you go with 10 your daughter? 11 A. Late in the afternoon. 12 Q. Okay. Do you know how long you waited in line? 13 A. Hmm. 20 minutes, 15 minutes. 14 Q. And that was in Edinburg? 15 A. That was in McAllen. 16 Q. Sorry. McAllen. And so you drove to McAllen, 17 correct? 18 A. Yes. 19 Q. Okay. Do you know what documents you brought 20 with you to help your daughter renew her driver's 21 license or to get her driver's license? 22 A. No, I don't recall. 23 Q. Do you know what documents she needed to have? 24 A. I don't recall. 25 Q. Do you know if there are some driver's license</p>
<p style="text-align: center;">34</p> <p>1 Q. Where is it? 2 A. Well, when I used to go, it was on the 3 northeast side of town. There is also one in McAllen 4 that is in the center part of McAllen. 5 Q. So about how far is the northeast end of town 6 from where you live? 7 A. Four miles. 8 Q. Okay. Do you know what the hours of operation 9 of that office in Edinburg are? 10 A. I assume they're regular business hours. 11 Q. And if you were to go, how would you get there? 12 A. I could walk, but I would probably drive. 13 Q. It's four miles. It's a pretty healthy walk, 14 right? 15 A. Yeah. I used to be walker until I tore my 16 ACL. I used to like walking. 17 Q. Sorry about that. 18 A. I walked here. 19 Q. And during business hours, when you could go to 20 the driver's license office, you're usually at work, 21 right? 22 A. I'm an attorney, and so my hours are flexible. 23 Q. Okay. 24 A. But I'm always an attorney. I don't know how 25 to say that. You understand. You're an attorney.</p>	<p style="text-align: center;">36</p> <p>1 offices that have been closed because of a lack of 2 funding? 3 A. I would have to assume or make a guess. So 4 I'll just say I don't know. 5 Q. Okay. Do you know if any drivers' licenses 6 offices now have reduced hours because of a lack of 7 funding? 8 A. I do not know that. 9 Q. Do you know if there are drivers' licenses 10 offices in every county in Texas? 11 A. I can't give you a specific -- I can't give you 12 a clear answer, so I just will say I don't know. 13 Q. Okay. Can we try the unclear answer? 14 A. You want me to guess? 15 Q. Well, if it's a guess, don't guess. 16 MR. HUGHES: Don't guess. 17 Q. (By Mr. Freeman) Don't guess. But if you had 18 some kind of partial answer. 19 A. I mean, I could -- I could make assumptions. 20 MR. HUGHES: Let's not guess. 21 Q. (By Mr. Freeman) No. That's not what we're 22 here for. I just need to find out what do you know. 23 A. Okay. 24 Q. So that's fine. 25 Are you aware of whether there's a</p>

<p style="text-align: center;">37</p> <p>1 particular driver's license office in Austin that is 2 used by legislators and staff?</p> <p>3 A. No.</p> <p>4 Q. Okay.</p> <p>5 A. No. I've never -- really? No.</p> <p>6 Q. Okay. Now, you've previously said, in an 7 interview with Governing magazine, that it's not an 8 inconvenience to get an ID; is that correct?</p> <p>9 A. Is that what I said? Let me just say, because 10 I don't -- I don't want to -- that -- that is a correct 11 general statement, okay? But I will say that it is a 12 very minor hurdle.</p> <p>13 Q. Okay. Do you know if there are longer delays 14 in some offices, in larger cities than McAllen, than the 15 delay you had with your daughter?</p> <p>16 A. I don't know. The only experience I had was 17 when I was in college, and I went in to get a driver's 18 license in Austin, and it was basically the same as it 19 is in McAllen.</p> <p>20 Q. Okay. Do you have a copy of your birth 21 certificate?</p> <p>22 A. Not with me, but I have one at home.</p> <p>23 Q. Yeah. You don't carry it around.</p> <p>24 Do you know where you'd get a copy if you 25 lost yours?</p>	<p style="text-align: center;">39</p> <p>1 weeks? Matter of days?</p> <p>2 A. I have a visual of myself standing in line and 3 asking for the documents. When I was physically 4 present, it wasn't that long.</p> <p>5 Q. Oh, okay.</p> <p>6 A. When I was physically present. Now, I don't 7 know if I called in, you know. But when I was 8 physically present, it wasn't that long.</p> <p>9 Q. Okay. How much does gas go for Hidalgo County 10 these days?</p> <p>11 A. It fluctuates. Recently, it's gone down. I 12 can make a guesstimate. 3.60.</p> <p>13 Q. Okay. Approximately 3.60?</p> <p>14 A. Yeah.</p> <p>15 Q. Okay. When was the last time you voted?</p> <p>16 A. I vote in every election. It's a habit I've 17 started since college. I make it a ritual. I'm very 18 proud of the fact that I don't miss elections.</p> <p>19 Q. Did you vote yesterday? Tuesday. And I 20 apologize.</p> <p>21 A. I voted the first day of early voting.</p> <p>22 Q. Okay. But did you vote in person?</p> <p>23 A. Yes.</p> <p>24 Q. Sorry about the confusion about the dates.</p> <p>25 A. That's okay. I said, "Oh, my God, I missed</p>
<p style="text-align: center;">38</p> <p>1 A. I'd either go to my city hall or I'd come to 2 Austin, and I'd get it from the department -- it's a 3 building that's off of Guadalupe, and it's the north 4 side of downtown.</p> <p>5 Q. Do you know how much it would cost to get a 6 copy?</p> <p>7 A. No. I could take a guess.</p> <p>8 Q. If you don't know, you don't know.</p> <p>9 Do you know how long it would take to get 10 a copy?</p> <p>11 A. Again, I'd take a guess. I'm sure it varies. 12 I don't know.</p> <p>13 Q. How would you go about finding the answers to 14 those questions if you needed to know them?</p> <p>15 A. Well, okay. Like I said, you know, I could 16 make assumptions. I could go to my downtown, you know, 17 city, and I could stand in line and I'd ask.</p> <p>18 Q. Okay.</p> <p>19 A. And my guess is, they'd either say we have it 20 or we don't have it or to come, or they'd say, "Here it 21 is."</p> <p>22 Q. Okay.</p> <p>23 A. You know. Here in Austin, I've done it before, 24 because I've to get passports, and it's not that long.</p> <p>25 Q. Okay. Any idea, not that long, matter of</p>	<p style="text-align: center;">40</p> <p>1 one."</p> <p>2 Q. How far is the early voting location from your 3 home?</p> <p>4 A. It's in my downtown. All right. Let me -- let 5 me -- give me a moment.</p> <p>6 Q. Sure.</p> <p>7 A. Of it's in my downtown.</p> <p>8 Q. So about how many miles is that from your 9 house?</p> <p>10 A. Five, six.</p> <p>11 Q. Okay. And do you know where your precinct is 12 if you would have voted on election day?</p> <p>13 A. Yes. 14.</p> <p>14 Q. And do you know how close that is to your 15 house?</p> <p>16 A. Just a couple of blocks away.</p> <p>17 Q. Okay. So closer than your driver's license 18 office?</p> <p>19 A. Yes. About halfway. About a third.</p> <p>20 Q. What ID are you carrying today?</p> <p>21 A. I have a driver's license. I have a concealed 22 handgun license. Yes, that's what I have with me.</p> <p>23 Q. I'll make sure to keep my questions very 24 friendly.</p> <p>25 A. (Laughing).</p>

<p style="text-align: center;">41</p> <p>1 Q. And which of those IDs have photo IDs? 2 A. This is Texas, okay? It's just Texas, don't be 3 intimidated. Go ahead. I'm sorry.</p> <p>4 Q. Which of those IDs have photos? 5 A. Both of them.</p> <p>6 Q. Okay. And do either of them establish 7 citizenship? 8 A. Hmm. I will say to get your Texas driver's 9 license, you have to go through a process that -- that I 10 believe proves citizenship.</p> <p>11 Q. Can a long-term permanent resident get a Texas 12 driver's license? 13 A. I can't answer the question.</p> <p>14 Q. And do you know if a green card holder who 15 lives in Texas and is waiting the amount of time that 16 they need to get citizenship, can they get a Texas 17 driver's license?</p> <p>18 A. I can take a guess, but I don't have a clear 19 answer, so... 20 Q. So you're not certain if a Texas driver's 21 license establishes citizenship; is that correct? 22 A. I will just say more likely than not that it 23 does establish citizenship, but there may be an 24 exception that I'm unaware of.</p> <p>25 Q. Is there any marker on your driver's license</p>	<p style="text-align: center;">43</p> <p>1 Q. Okay. If you don't know, you don't know. 2 And do you have a passport? 3 A. Yes.</p> <p>4 Q. Do you have any form of military ID? 5 A. Yes.</p> <p>6 Q. And a passport does establish citizenship, 7 correct? 8 A. Yes. 9 Q. Does military ID? 10 A. I've never -- I don't recall anybody asking me 11 that question. 12 Q. When did you serve in the military? 13 A. I'm a member of the Texas State Guard, which is 14 a state militia.</p> <p>15 Q. What other types of ID are produced by the 16 state of Texas; are you aware? 17 A. I've heard that there is an ID you can get that 18 simply identifies who you are. 19 Q. So a nondriver ID? 20 A. Right. 21 Q. Anything else? 22 A. Hmm. Not that I'm aware of. 23 Q. Do you have a legislator ID? 24 A. Yes. 25 Q. Does it have your picture on it?</p>
<p style="text-align: center;">42</p> <p>1 that says that you're a citizen? 2 A. Not on my driver's license. 3 Q. Okay. And have you ever seen a Texas driver's 4 license that indicates that someone is a noncitizen? 5 A. I have heard that there is something like 6 that. Somebody told me that. But I don't know with 7 certainty. 8 Q. Okay. But your license to carry does not 9 indicate citizenship either; is that correct? 10 A. No, but -- 11 Q. You can check, if you'd like. 12 A. Yeah. I don't think so. I don't look at it 13 that much. No, I don't see it. 14 Q. Okay. And can I just ask: If someone is a 15 refugee from another country and lives in Texas now and 16 they're, you know, under asylum status, they wouldn't be 17 able to have driver's license from that other country; 18 is that correct? 19 A. I can't answer with certainty. 20 Q. But there's no -- but they'd still be able to 21 get a driver's license and drive? 22 A. You mean, if they have formal asylum? 23 Q. Yes. 24 A. I can't answer with certainty, but it sounds 25 reasonable. I'm guessing. I don't know.</p>	<p style="text-align: center;">44</p> <p>1 A. Yes. 2 Q. So does that establish who you are? 3 A. These are informal internal documents used by 4 the Capitol for security purposes. I think there is one 5 of them that's issued by the State of Texas, DPS. But 6 quite frankly, I think they're internal documents used 7 for management of personnel. 8 Q. But if you were to show that to someone, it 9 would have your name and your photo, correct? 10 A. Yes. 11 Q. And so it would -- it would establish you are 12 Aaron Pena, correct? 13 A. No, I assume they could be -- well, the 14 security levels are probably not as high. Because I 15 simply go into an office and ask for my photo to be 16 taken. I mean, they have to confirm who I am, but they 17 don't -- there's not a whole lot of security protocols, 18 I'm sure. I can't answer with certainty. 19 Q. Do you have that legislator ID on you now? 20 A. I can check. I probably don't, because it's 21 not a -- you know, the wallet gets real thick and it's 22 not an essential. Okay. Let me say that this is a 23 security magnetic card that allows access. It's one of 24 the many IDs that they give us, okay? 25 Q. And it has your photo on it?</p>

<p style="text-align: center;">45</p> <p>1 A. Yes, it does. 2 Q. And your name? 3 A. Yes, it does. 4 Q. And an expiration date? 5 A. No. Well, I guess by saying 82nd Legislative 6 Session, that's somewhat of an expiration. 7 Q. So as of January 2011, it will no longer be 8 valid? 9 A. I mean, my terms goes -- yes, that's correct. 10 Q. Okay. So that establishes your identity, 11 doesn't it? 12 A. It doesn't have the security protocols that -- 13 that I'm sure the State of Texas requires. I know that 14 we have -- we follow some of the ID requirements out of 15 the federal government. So I'm not sure what those are. 16 Q. Does your license to carry have more security 17 features on it? 18 A. Yes. 19 Q. And what are those features? 20 A. Well, if you look at it, you have to turn it 21 sideways, but you can see a -- and I don't know the 22 term. It's kind of a ink that is apparent when you turn 23 it sideways. And then the same with the star there. Do 24 you see that? It's hard to put in words. But it is a 25 security, and then it has magnetic strip as well</p>	<p style="text-align: center;">47</p> <p>1 Q. And -- 2 A. But it's harder, you know? 3 Q. And are there -- you mentioned the particular 4 security features of a Texas concealed handgun license. 5 Are there similar features on a Texas driver license? 6 A. Yes. 7 Q. And is there any equipment that's needed to 8 utilize any of those security features, like a black 9 light or a barcode reader? 10 A. Yes. I would assume yes, because I've noted 11 that when I go to the airport, they look at it with a 12 light and they turn it. So I assume there's some 13 security feature they're looking for. 14 Q. Do they have those blacks lights and barcode 15 readers at polling places? 16 A. Hmm. I don't think so. They could have a 17 light, but I don't think they have the training or have 18 knowledge of the security features. 19 Q. And so for purposes the polling place, those 20 security features aren't really going to be helpful, 21 will they? 22 A. I don't understand your question. 23 Q. For a poll worker who doesn't have the black 24 light, who doesn't have the scanning machine, and you 25 said doesn't have the training, the difference between</p>
<p style="text-align: center;">46</p> <p>1 containing information. 2 Q. Are those all the security features? 3 A. I'm not aware of what additional security 4 features are in it. 5 Q. Does the State of Texas produce any other 6 employee -- 7 A. Oh, I'm sorry. There's also an embossed number 8 here. 9 Q. Okay. Does the State of Texas produce any 10 other employee IDs? For example, employees of the 11 office of the Attorney General or the -- 12 A. Sure. I'm sure there's internal management 13 cards that they issue. 14 Q. Do Texas public universities produce student 15 IDs? 16 A. I had one when I was at school. 17 Q. Did it have a photo? 18 A. I can't recall, but I would assume. 19 Q. Do those documents establish an individual's 20 identity? 21 A. Yes. The levels of security, though, are very 22 weak. I mean, they could be forged. 23 Q. Is it your position that a driver's license 24 cannot be forged? 25 A. No. I assume everything could be forged.</p>	<p style="text-align: center;">48</p> <p>1 your legislator ID and a Texas driver license, it's not 2 really going to make a difference, will it? 3 A. Sure. I mean, you can feel more comfortable 4 that the Texas driver's license is who you are than a 5 university ID. 6 Q. And what's your basis for that? 7 A. Oh, well, you know, I am aware that we follow 8 certain protocols that the federal government -- I 9 forget what it's called. I forget what the law is. But 10 there are certain protocols that the government is 11 imposing on the states. 12 Q. Uh-huh. 13 A. Whatever that law is, I'm aware of it, because 14 we've had to deal with it in the Homeland Security 15 Committee. 16 Q. Is that the Real ID Act? 17 A. That's very good. Very good. 18 Q. I'm just trying to help. 19 A. And then I am aware of these new features that 20 have been added to the drivers' licenses. They were not 21 there before. These are hard to duplicate. I assume 22 anything could be duplicated, but it makes it very 23 hard. The magnetic strip, I'm not sure what's contained 24 on it, but I know that it's used. 25 Q. Is it -- have you ever seen a Texas citizen --</p>

<p style="text-align: center;">49</p> <p>1 or not a Texas citizenship certificate -- excuse me -- a 2 citizenship certificate used as a form of ID with a 3 photo?</p> <p>4 A. You mean a United States citizenship?</p> <p>5 Q. Uh-huh.</p> <p>6 A. No, I've never seen one. Where can you get one 7 of those?</p> <p>8 Q. And do you know if those citizenship 9 certificates have similar security features to what 10 you've described?</p> <p>11 A. I've never seen one. I don't know.</p> <p>12 Q. Okay.</p> <p>13 A. You've caused me to want to have one.</p> <p>14 Q. I think it may be for new citizens.</p> <p>15 A. Oh, okay.</p> <p>16 Q. But I'm not sure.</p> <p>17 A. What's the drinking age in Texas?</p> <p>18 A. 21.</p> <p>19 Q. And are you aware of whether anyone under the 20 age of 21 has ever created a counterfeit driver license 21 in Texas?</p> <p>22 A. In the old days, I'd say yes. Nowadays, 23 people -- with the security features, it's very hard to 24 make a credible one.</p> <p>25 Q. And what's your basis for saying that it's hard</p>	<p style="text-align: center;">51</p> <p>1 polling places to have those black lights that we 2 discussed to test the validity of the Texas driver's 3 license?</p> <p>4 A. You know, I don't remember that being 5 discussed.</p> <p>6 Q. Where do you get information about elections? 7 What sources do you use?</p> <p>8 A. I am a consumer, a heavy consumer of all 9 information on the Internet, in the newspapers. I 10 listen to -- I'm a news junkie. When I'm in the 11 Capitol, there's all kinds of information we're 12 bombarded with.</p> <p>13 Q. Any particular newspapers or websites that you 14 focus on?</p> <p>15 A. The New York Times. Well, look. Okay. 16 Everything.</p> <p>17 Q. Okay.</p> <p>18 A. In this country and in other countries, even 19 when the language is difficult for me to read.</p> <p>20 Q. Okay. For Texas news, what are your top two?</p> <p>21 A. Hmm. Dallas Morning News, and either the Texas 22 Tribune or Harvey Kronberg's Quorum Report, which is an 23 aggregation of news.</p> <p>24 Q. Do you read the McAllen Monitor?</p> <p>25 A. Oh, yeah, religiously. Listen, I read nearly</p>
<p style="text-align: center;">50</p> <p>1 to create a credible one?</p> <p>2 A. Well, I've heard them talk about these security 3 features on the driver's license and how they make it 4 more difficult for people to create them.</p> <p>5 Q. But do you think that -- do you think that no 6 one is creating fake Texas IDs to get alcohol anymore?</p> <p>7 A. I don't have any personal knowledge. I just 8 remember as a kid, you know, people would try to create 9 them. But we didn't have a whole lot of safety features 10 at the ID.</p> <p>11 Q. Did it work?</p> <p>12 A. Oh, I didn't do it. I just had friends who 13 said they did it.</p> <p>14 Q. Are you aware of how many convictions for the 15 use of fake IDs have been obtained in the state of Texas 16 in the last 20 years?</p> <p>17 A. No, I'm not.</p> <p>18 Q. Are you aware of how many fake IDs have been 19 seized at bars and clubs, et cetera?</p> <p>20 A. No, I'm not.</p> <p>21 Q. Do you know how many investigated incidents 22 there have been related to the use of fake IDs in Texas 23 in the last 20 years?</p> <p>24 A. No.</p> <p>25 Q. Do you have if SB 14 provides any financing for</p>	<p style="text-align: center;">52</p> <p>1 every paper that I can get my hands on.</p> <p>2 Q. Okay. Do you watch any TV news?</p> <p>3 A. Yes.</p> <p>4 Q. What channels do you watch?</p> <p>5 A. MSNBC, Fox News, CNN, Univision, Telemundo. If 6 there is a news outlet and it's available to me, I watch 7 it.</p> <p>8 Q. Okay. Giving your remote a workout.</p> <p>9 Do you listen to any talk radio?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What do you listen to?</p> <p>12 A. Well, if something is pinpointed on the 13 Internet as something to listen to, I will listen to it.</p> <p>14 Q. Okay.</p> <p>15 A. Of political interest.</p> <p>16 Q. Uh-huh.</p> <p>17 A. I listen to the Houston Talk Radio, 92 FM. I 18 listen to KTRH out of Houston. I listen to the 710 talk 19 radio in McAllen. I listen to KTRH, 1200 in 20 San Antonio. 590 in San Antonio. 550 -- no, not 550. 21 I listen to Internet radio.</p> <p>22 Q. Okay.</p> <p>23 A. If it is on the air, and it has to do with 24 politics or culturally-interesting subjects, I will 25 listen to it.</p>

<p style="text-align: center;">61</p> <p>1 A. Okay. What I'm given each day.</p> <p>2 Q. Uh-huh.</p> <p>3 A. The legislative analysis, all the stuff that</p> <p>4 people give us from the outside, outside of government,</p> <p>5 interest groups, what not that they want us to read,</p> <p>6 it's usually put in a folder and I carry it to the</p> <p>7 floor. And then on the floor after the day is up, that</p> <p>8 material is usually not important for any other day. So</p> <p>9 I'll either put it under my desk where it will sit until</p> <p>10 it ages to a point to where, you know -- I could have</p> <p>11 access to it, but it ages to the point where I just need</p> <p>12 to throw it away. Or I'll hand it to my staff and say</p> <p>13 "Here, figure out what you're going to do with this</p> <p>14 stuff," and it probably is trashed. Because unless it's</p> <p>15 a long-running issue, I just see no reason to keep all</p> <p>16 that paper piling up. We have a blue trash can in the</p> <p>17 corner, everything is put in the recycle, and so I don't</p> <p>18 know the answer with certainty.</p> <p>19 Q. Okay. You said your chiefs of staff. Who is</p> <p>20 that besides Mari Deleon?</p> <p>21 A. Mari is the one from here. Although my former</p> <p>22 chief of staff from here moved to the Valley, and so he</p> <p>23 maintains the title for the Valley. He's a more senior</p> <p>24 member than Mari Deleon. So --</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">63</p> <p>1 caucus that where we gather information, and it is you</p> <p>2 read it and you get rid of it.</p> <p>3 Q. With regard to those policy issues that earlier</p> <p>4 in your career you kept things around, what were those</p> <p>5 issues? Do you remember?</p> <p>6 A. I think the medical school in Harlingen, the</p> <p>7 drug treatment center that we tried to achieve. Some of</p> <p>8 the airport -- the Edinburg airport issues.</p> <p>9 Q. Okay. So was voter ID one of those issues?</p> <p>10 A. No. I came into the session knowing how I was</p> <p>11 going to vote. Absent some oppressive, overly</p> <p>12 oppressive requirements, you know, I knew how I was</p> <p>13 going to vote.</p> <p>14 Q. Do you maintain files on your X or Y drive</p> <p>15 concerning particular legislation?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. How did you know how you were going to vote or</p> <p>18 voter ID coming into the session?</p> <p>19 MR. HUGHES: I'm going to instruct on</p> <p>20 legislative privilege, and not to reveal thoughts,</p> <p>21 mental impressions, opinions about legislation,</p> <p>22 including voter ID, and don't reveal communications that</p> <p>23 you've had with legislators, legislative staff, any</p> <p>24 state agency, legislative council or constituents</p> <p>25 concerning the same.</p>
<p style="text-align: center;">62</p> <p>1 A. -- he occasionally exerts his authority by</p> <p>2 saying "Let's do things this way."</p> <p>3 Q. And that's Orlando?</p> <p>4 A. Orlando.</p> <p>5 Q. Okay. And so you don't -- you're not aware of</p> <p>6 any retention policy related to documents for your</p> <p>7 office?</p> <p>8 A. I don't like to see a lot of paper in my</p> <p>9 office. I don't like to see file cabinets. There's</p> <p>10 just no purpose for it. Information -- we're bombarded</p> <p>11 with information, and if you don't get rid of it, it's</p> <p>12 going to just consume you. So we get rid of it. And I</p> <p>13 don't want paper sitting around. If I need information</p> <p>14 or I need to have the information one more time, people</p> <p>15 are glad to give it to me. So --</p> <p>16 Q. Okay. Now, you had said you do maintain files</p> <p>17 on some long-running issues. What are some of those</p> <p>18 issues?</p> <p>19 A. We would keep clippings from the Valley,</p> <p>20 clippings where -- where we appeared.</p> <p>21 Q. Uh-huh.</p> <p>22 A. When I was in early in my career, I would keep</p> <p>23 a folder on subjects, you know, I thought I could read</p> <p>24 everything. But now, it's just -- I know where to get</p> <p>25 my information. There are all kinds of channels like</p>	<p style="text-align: center;">64</p> <p>1 MR. FREEMAN: Mr. Hughes, with regard to</p> <p>2 constituents, I think it's pretty clear from the court's</p> <p>3 order concerning the Lieutenant Governor, that</p> <p>4 constituent communications are not privileged, and the</p> <p>5 responses to those communications are public. Can we</p> <p>6 agree on that?</p> <p>7 MR. HUGHES: One moment.</p> <p>8 MR. FREEMAN: The May 28th order, if</p> <p>9 that's helpful.</p> <p>10 MR. HUGHES: What part of the order are</p> <p>11 you talking about?</p> <p>12 MR. FREEMAN: It's the very end of the</p> <p>13 order.</p> <p>14 MR. HUGHES: Yeah. I'll revise my</p> <p>15 instruction. Again, don't offer testimony concerning</p> <p>16 your thoughts, mental impressions, opinions about</p> <p>17 legislation, including Senate Bill 14, and don't reveal</p> <p>18 communications you've had with legislators, legislative</p> <p>19 staff or any state agency concerning the same.</p> <p>20 A. Okay. And you said that I would not be -- that</p> <p>21 outside that privilege was communications with --</p> <p>22 Q. Constituents?</p> <p>23 A. Constituents.</p> <p>24 Q. We have some further disagreements with your</p> <p>25 counsel, but I just thought that was one that was</p>

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1 relatively --

2 MR. HUGHES: For the record, I think the
 3 communications with constituents is already part of the
 4 legislative transcript regarding Representative Pena's
 5 testimony on the floor so it's out there either way.

6 MR. FREEMAN: Sure. Sure.

7 Q. (By Mr. Freeman) I just wanted you to explain
 8 the statement --

9 A. I don't have any specific communications that I
 10 can identify.

11 Q. Okay.

12 A. But I can tell you that the communications that
 13 I got from constituents were generally -- there's too
 14 much corruption here where we live. There was too much
 15 electoral corruption, especially in the Delta community,
 16 which is a poor farming community where my family is
 17 from. It's adjacent to my home base which is Edinburg.
 18 And in the La Joya-Sullivan City area and in the
 19 outskirts of Edinburg, that electoral corruption had
 20 gotten really bad and had reached -- there was a certain
 21 amount that we all kind of know exists, and we kind
 22 of -- like a fly that you just want it to go away but it
 23 doesn't go away. But it had reached the point where
 24 even the organizations that were -- that had encouraged
 25 that sort of behavior were stepping forward and saying

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1 Q. Well, I'm asking.

2 A. Well, you know, I sometimes I'd have my card,
 3 my voter card, and I hand it to them. But I live in
 4 such a small town, everybody knows who I am, so they
 5 just say, "Oh, Mr. Pena, come on in." But I usually
 6 give them the card so they can stamp it. But I -- I'm
 7 the sort of the person that hands an ID every time I
 8 vote.

9 Q. But they -- you have to under Texas law show
 10 that voter registration card or some alternative form of
 11 ID in order to vote in person, correct?

12 A. Okay. I'll accept what you say.

13 Q. But you don't need to show ID similarly to vote
 14 by mail, right?

15 A. I don't think so.

16 Q. And so when people were saying that they wanted
 17 you to deal with corruption and to deal with that fly
 18 that you mentioned before, were they talking about --
 19 A. It was greater than a fly. The fly was the
 20 standard operating procedure, but it had reached
 21 proportions that they just said it's got to stop. It's
 22 getting out of hand.

23 Q. A swarm of flies?

24 A. Okay.

25 Q. Were they talking about in-person voting, or

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1 "It's gotten too far. We've got to put a stop to it."
 2 Specifically, I remember the BEE Club, the
 3 Better Edcouch-Elsa community organization, and the TACO
 4 Club. The Delta area community organization had come to
 5 me wanting to stop the corruption, the voter
 6 corruption. And then -- okay. That was a constituent
 7 -- those were constituent communications.

8 Then also from many of the same people,
 9 there was a sense of that voter ID is a good thing. The
 10 only time I had somebody say it was a bad thing were
 11 from activists, activists from the Democratic ranks. I
 12 heard it in speeches and what not.

13 Q. And when they said voter ID is a good thing,
 14 did they explain what they meant by that?

15 A. They wanted -- they wanted somebody to do
 16 something. They just wanted -- it was getting worse and
 17 worse, and they wanted somebody to do something.

18 Q. But doesn't Texas already have some kind of law
 19 that requires some form of identification prior to
 20 voting in person that requires you to establish your
 21 identity?

22 A. Okay. Ask your question again.

23 Q. Doesn't Texas already have a law that requires
 24 you to establish your identity when you vote in person?

25 A. And that law is?

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1 were they talking about mail-in ballots?

2 A. They were talking about all forms of voter
 3 fraud. That's my sense.

4 Q. Were they talking about voter impersonation?

5 A. Yeah. I would assume that's part of it. But
 6 you're asking me to assume what other people were
 7 telling me, but it was general statements like "This has
 8 got to stop. This is bad. Things are getting out of
 9 hand."

10 Q. Did anyone ever specifically say this voter
 11 impersonation has got to stop? People are coming in and
 12 --

13 A. Nobody talks like that. We don't use those
 14 words.

15 Q. Did they ever say "It's got to stop. People
 16 are coming in and showing a registration card saying
 17 they're someone else and voting for someone else"?

18 A. I've heard that from the McAllen community but
 19 not from the Delta community.

20 Q. Is there ever any -- so you came into this
 21 session knowing that you were going to vote specifically
 22 in favor of voter ID unless they were overly oppressive
 23 requirements. That was your testimony earlier, right?

24 A. Yes.

25 Q. And so did anyone -- did you make any promises

<p style="text-align: center;">73</p> <p>1 figure out what the proper protocol is from hence 2 forward.</p> <p>3 Q. Okay. And so you are unable to answer with 4 regard to any promises that were made by you or to you 5 because of the legislative privilege, is that your 6 testimony?</p> <p>7 MR. HUGHES: Same instruction.</p> <p>8 A. Am I able to answer? Okay. I'm going to 9 answer.</p> <p>10 MR. HUGHES: Can you repeat the question?</p> <p>11 MR. FREEMAN: I was just asking if he's 12 unable to answer concerning any promises that were made 13 by him or to him concerning legislative -- or concerning 14 voter ID because of his privilege assertion.</p> <p>15 MR. HUGHES: Same instruction.</p> <p>16 A. I'm physically able to answer but because of 17 the instruction, I'm going to follow the advice of 18 counsel.</p> <p>19 Q. (By Mr. Freeman) Now, you had said before that 20 you were going to support voter ID unless there were any 21 overly oppressive requirements.</p> <p>22 A. Yes.</p> <p>23 Q. What did you mean by that?</p> <p>24 A. Well, I can -- I can -- I was waiting to see 25 what somebody was going to suggest, but requiring</p>	<p style="text-align: center;">75</p> <p>1 complies with the Texas constitution?</p> <p>2 MR. HUGHES: I'm going to offer the same 3 instruction on legislative privilege, not to answer to 4 the extent that calls for revealing communications with 5 other legislators, legislative staff, any state agency, 6 including the Texas Legislative Council, or to the 7 extent it calls for you to reveal your thoughts, mental 8 impressions or opinions about legislation.</p> <p>9 A. I can use my own training as a lawyer.</p> <p>10 Q. (By Mr. Freeman) Anything else?</p> <p>11 A. The adversarial process will ferret things out.</p> <p>12 Q. So is it your understanding that sometimes 13 things make it out of the legislature that don't comply 14 with the Texas constitution, but people fight it out in 15 litigation, and that's part of the process?</p> <p>16 MR. HUGHES: Same instruction.</p> <p>17 A. No. That's not what I meant when I said that.</p> <p>18 Q. Okay.</p> <p>19 A. What I meant was --</p> <p>20 Q. Please clarify.</p> <p>21 A. There's a -- there are multiple positions taken 22 on a bill, and the adversarial system will cause the 23 opposing side to raise the issue.</p> <p>24 Q. Okay.</p> <p>25 A. And but there are other controls involving</p>
<p style="text-align: center;">74</p> <p>1 multiple IDs, you know, that's an example, something 2 that I thought was overly oppressive.</p> <p>3 Q. Anything else?</p> <p>4 A. Well, you know, people are creative, and they 5 would have come up with something, but I wasn't going to 6 -- I wasn't going to allow something overly oppressive 7 to keep people from voting. This in my opinion is not 8 overly oppressive.</p> <p>9 Q. Okay. Do you believe that compliance with the 10 Texas constitution is an important consideration in the 11 law-making process?</p> <p>12 MR. HUGHES: And again, this is going to 13 get old. But I want to instruct you with respect to 14 legislative privilege, not to reveal thoughts, mental 15 impressions or opinions about legislation, including 16 Senate Bill 14. And to the extent this question calls 17 for testimony concerning your mental impressions, 18 opinions about Senate Bill 14, I instruct you not to 19 answer, to that extent only.</p> <p>20 A. Look, like any lawyer, the law should be 21 followed, unless you're attempting to make a challenge, 22 to extend the law, to change the law. The law should 23 always be followed.</p> <p>24 Q. (By Mr. Freeman) What steps do you take to 25 ensure that a bill you're working on or voting on</p>	<p style="text-align: center;">76</p> <p>1 lawyers and what not that are -- that are present.</p> <p>2 Q. I guess I'm more curious what's your process?</p> <p>3 You said you rely on your own training as a lawyer.</p> <p>4 Anything else?</p> <p>5 MR. HUGHES: Same instruction. Don't 6 answer to the extent it calls you to reveal 7 communications with other legislators, legislative 8 staff, or any state agency, including the Texas 9 Legislative Council.</p> <p>10 A. Yeah. I think I answered it with the previous 11 question.</p> <p>12 Q. (By Mr. Freeman) Okay. Do you believe 13 compliance with federal law is an important 14 consideration in the law-making process?</p> <p>15 A. Yeah. I'll give the same answer I gave to the 16 state law. We should always try to follow the law. And 17 absent an attempt to extend it or challenge it, that's 18 what you ought to do.</p> <p>19 Q. And do you believe compliance with the federal 20 Voting Rights Act is an important consideration in the 21 law-making process?</p> <p>22 MR. HUGHES: I'm going to continue to give 23 the same instruction to you, which is not to answer to 24 the extent that answer calls for you to reveal your 25 thoughts, mental impressions, opinions about</p>

<p style="text-align: center;">77</p> <p>1 legislation, including voter ID. 2 A. The same answers I gave before apply to this 3 one.</p> <p>4 Q. And was part of the purpose of SB 14 to 5 challenge the federal Voting Rights Act as you described 6 it previously?</p> <p>7 MR. HUGHES: Again, I'm going to instruct 8 you not to answer to the extent the answer calls for you 9 to reveal your thoughts, mental impressions, opinions 10 about legislation, including Senate Bill 14, and don't 11 reveal communications that you've had with legislators, 12 legislative staff, any state agency, including the Texas 13 Legislative Council.</p> <p>14 MR. FREEMAN: Mr. Hughes, two things: 15 First, I thought that I was under the impression that 16 you were going to try to limit speaking objections.</p> <p>17 MR. HUGHES: These aren't speaking 18 objections. These are asserting my legislative 19 privilege objection.</p> <p>20 MR. FREEMAN: It's a lengthy objection, 21 and we're trying to move this along for everyone's 22 benefit.</p> <p>23 Secondly, I think it's pretty clear under 24 the Jewish War Veterans' decision that information 25 relating to the overall purpose of a legislative act,</p>	<p style="text-align: center;">79</p> <p>1 don't want to be fighting this out all day. 2 (Recess taken from 11:33 a.m. to 3 11:38 a.m.)</p> <p>4 MR. FREEMAN: Would you read back the last 5 question? 6 (Requested portion read back by the court 7 reporter.)</p> <p>8 MR. HUGHES: I will -- my objection to 9 that is that you -- that you -- based on legislative 10 privilege, is that you may testify pursuant to the 11 court's order about the general purpose or the purpose 12 of the legislature as a whole in enacting Senate Bill 13 14, as opposed to the subjective intent of any 14 particular legislator. But you may not answer or reveal 15 communications that you had with the legislators, 16 legislative staff, members of any state agency, and so 17 forth.</p> <p>18 A. The purpose of the bill was to respond to the 19 desires of the community, which is reflected in what I 20 was told as I described to you. And the public polls 21 have shown overwhelming support, not only in the Anglo 22 community but the minority community, the Hispanic 23 community. Those polls were done by the University of 24 Texas and the Texas Tribune and have been done by 25 others. As to -- as to the intent from other</p>
<p style="text-align: center;">78</p> <p>1 rather than the individual motivations of the 2 legislators, is not covered by the privilege. And I 3 believe that when this issue was raised during the first 4 week of depositions, that the State of Texas conceded 5 that point and allowed us to pursue questioning 6 concerning the purpose of the bill.</p> <p>7 MR. HUGHES: You can ask about the 8 publicly stated purposes of the bill. You can't ask 9 about the mental impressions, deliberations, back-room 10 discussions that may or may not have occurred. That's 11 all covered by the privilege.</p> <p>12 MR. FREEMAN: I'm not asking about 13 individual motivation, but I am going to ask about 14 nonpublic purposes, which the purpose of the bill and 15 are covered by -- that are not covered by the 16 legislative privilege, regardless of whether someone got 17 up on the floor and said it.</p> <p>18 And I believe the State of Texas has 19 already agreed, and I hope we do not have to -- I mean 20 we got on the call or we got on the -- we sent out a 21 letter, I believe, with the state to the court and 22 resolved this issue. And if we have to take a break to 23 pull that up that letter, I'm happy to do so.</p> <p>24 Let's go off the record for a second and 25 we'll get that and see if we can resolve this, because I</p>	<p style="text-align: center;">80</p> <p>1 legislators, I can't speak for them. But that was my 2 intent.</p> <p>3 Q. (By Mr. Freeman) Okay. But in terms of the 4 purpose, not -- not the primary purpose, but whether a 5 purpose of the bill was to challenge the federal Voting 6 Rights Act, as you've described earlier that compliance 7 may or may not be an important purpose if you're trying 8 to push back against the law, was a purpose of the bill 9 to do that?</p> <p>10 MR. HUGHES: And again, the -- I'm 11 instructing you based on legislative privilege not to 12 answer other than an answer concerning the general 13 purpose of Senate Bill 14 and not the subjective or 14 individualized purpose of any legislator.</p> <p>15 A. The two purposes that I answered were the 16 purpose that I had.</p> <p>17 MR. FREEMAN: Mr. Hughes, I'll ask if the 18 question is not objectionable, that you not give that -- 19 give that instruction as you are interfering with the 20 examination by doing so. Thank you.</p> <p>21 Q. (By Mr. Freeman) What committees do you 22 currently sit on?</p> <p>23 A. Okay. Including subcommittees?</p> <p>24 Q. Just committees?</p> <p>25 A. Okay. Homeland Security. It may be called by</p>

<p style="text-align: center;">81</p> <p>1 a different name, but that's essentially what we call 2 it. The Technology Committee, which I chair. There are 3 a couple of select committees. Oh, okay. One of them 4 has to do with -- that the voter ID went through, and I 5 think that was called the Committee on -- I forgot the 6 name.</p> <p>7 Q. Was it Voter Identification and Voter Fraud?</p> <p>8 A. Very good.</p> <p>9 Q. Were you on any other select committees?</p> <p>10 A. Yes. But I can't recall their names.</p> <p>11 Q. Okay. What is a select committee?</p> <p>12 A. A select committee is one that where a 13 committee is created. It's not a standing committee. 14 It's created for a specific purpose. And the committee 15 is hand-picked. Well, they're all -- I guess they're 16 all hand-picked for a specific purpose.</p> <p>17 Q. Okay. Are you aware of who picked the name, 18 "Select Committee on Voter Identification and Voter 19 Fraud?"</p> <p>20 A. No.</p> <p>21 Q. Are you aware of whether there have been any 22 other select committees relating to voting or elections 23 in the current or past legislatures in which you served?</p> <p>24 A. I served on the Elections Committee.</p> <p>25 Q. But were there any other select committees</p>	<p style="text-align: center;">83</p> <p>1 Q. What is this document?</p> <p>2 A. It appears to be a document, a press release, 3 announcing House committee assignments.</p> <p>4 Q. Okay. And do you see on the second to the last 5 page next to Select Committee on Voter 6 Identification and Voter Fraud, it italics it says 7 "fast-track"?</p> <p>8 A. I do see that.</p> <p>9 Q. Do you have any idea what that means?</p> <p>10 A. I didn't put it there so I don't know.</p> <p>11 Q. Have you ever seen any other committee 12 designated as a fast-track committee?</p> <p>13 A. No. And I've never -- other than this 14 document, I've never seen this committee referred to as 15 a fast-track committee.</p> <p>16 Q. Okay. How many bills did the Select Committee 17 on Voter Identification and Voter Fraud consider?</p> <p>18 A. You know, I know I had a bunch of bills in the 19 committee. Hold on a second. They did go to 20 elections. I think they was scattered all over the 21 place. Yes. They went to elections. No. The answer 22 is no, I can't give you a specific answer.</p> <p>23 Q. Let's see if I can refresh your recollection. 24 This document is --</p> <p>25 A. Oh, you know what? Forgive me. Forgive</p>
<p style="text-align: center;">82</p> <p>1 distinct from elections?</p> <p>2 A. There may have been. I don't recall.</p> <p>3 Q. Okay. Are you aware of any other select 4 committees that relate directly to a standing committee 5 in the way that Select Committee on Voter Identification 6 and Voter Fraud relates directly to elections?</p> <p>7 A. I was on the Emergency Management select 8 committee. And that related to -- even though that was 9 covered by the homeland -- was the Homeland Security 10 Committee in existence? Okay. Yes, vaguely. Okay? I 11 was on a select committee that had to do with the 12 subject area of another committee.</p> <p>13 Q. Okay.</p> <p>14 A. Border Affairs and Homeland Security, and we 15 handled emergency preparedness and homeland security.</p> <p>16 Q. Okay.</p> <p>17 A. And I was the chair of that committee.</p> <p>18 Q. Okay. Was the Select Committee on Voter 19 Identification and Voter Fraud a fast-track committee?</p> <p>20 A. I can't answer that. I don't know.</p> <p>21 Q. This exhibit has previously been marked as U.S. 22 Exhibit 12. And do you see at the bottom of the page 23 where key -- after key facts on committees -- well, 24 first, have you seen this document before?</p> <p>25 A. Never, not that I can recall.</p>	<p style="text-align: center;">84</p> <p>1 me. State it again, please, the question.</p> <p>2 Q. Do you know how many bills the Select Committee 3 on Voter Identification and Voter Fraud considered?</p> <p>4 A. To answer your specific question, no, I don't, 5 but I recalled something else. But go ahead and ask 6 your next question.</p> <p>7 Q. Well, let's just see if I can refresh your 8 recollection. This document has already been marked as 9 Exhibit 13. First off, what did you recall in response 10 to my question?</p> <p>11 A. I can recall that the committee chair for his 12 own -- got frustrated, but I think it gets into the 13 legislative privilege.</p> <p>14 Q. Okay.</p> <p>15 A. And -- okay.</p> <p>16 Q. Having now looked at this document, first, have 17 you seen this document before?</p> <p>18 A. Yes. Something -- if not, something similar.</p> <p>19 Q. Okay. So you're able to recognize what this 20 document is?</p> <p>21 A. Yeah.</p> <p>22 Q. What is this document?</p> <p>23 A. It's -- this document contains information that 24 -- in a format that describes, that we regularly see, 25 that describes, you know, what the bill is, who the</p>

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1 authors are, who the sponsors are, and the caption,
 2 which is a small blurb, describing the bill.
 3 Q. But this document also names the number of
 4 bills that were considered by the Voter Identification
 5 and Voter Fraud Committee, correct?
 6 A. Oh, I don't know if that's what that document
 7 refers to. If you tell me that's what it refers to, I
 8 have nothing to contradict what you're saying.
 9 Q. Well, do you see at the top of the committee --
 10 or at the top of the document it says, "Texas
 11 Legislature Bills by Committee." And so if you're happy
 12 to accept my representation, I can say that it is the
 13 Texas Legislature's website's report on --
 14 A. The number of bills.
 15 Q. -- the number of bills by committee.
 16 So having looked at this document, can you
 17 now let me know how many bills that select committee
 18 that you were on considered?
 19 A. Well, you say it's one, that this represents
 20 one, and I'll accept what you say, because I have
 21 nothing --
 22 Q. Do you recall any other documents that -- or
 23 excuse me, any other bills that you addressed
 24 specifically in the context of that committee?
 25 A. Not that I can recall.

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1 objection on this matter about committee assignments as
 2 a general matter.
 3 And therefore, within that general
 4 subject matter, I believe that we are entitled to
 5 discuss with the witness whether communications
 6 occurred, when they occurred, where they occurred, and
 7 with whom they occurred. I will not go beyond that,
 8 unless I'm making a record. But I will understand that
 9 you -- there's a legitimate dispute beyond that point.
 10 But before that point, I do not believe there's a
 11 legitimate dispute.
 12 MR. HUGHES: I think you're accurately
 13 interpreting the court's guidance to us.
 14 MR. FREEMAN: Okay.
 15 MR. HUGHES: So if you asked your
 16 questions that way.
 17 MR. FREEMAN: Well, I believe that my
 18 question was asked that way.
 19 MR. HUGHES: Why don't you try again?
 20 MR. FREEMAN: Can we have it read back?
 21 Sorry.
 22 (Requested portion read back by the court
 23 reporter.)
 24 MR. HUGHES: So now you can ask your next
 25 question, because I think you've already got Step 1, the

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1 Q. Okay. Can you think of any other examples of a
 2 select committee that heard only one bill?
 3 A. I can't think of one.
 4 Q. Did you ask to be on the Select Committee on
 5 Voter Identification and Voter Fraud?
 6 A. No. I was placed there.
 7 Q. Did you have any conversations as a general
 8 matter concerning committee assignments prior to the
 9 assignments being made in the 82nd Legislature?
 10 MR. HUGHES: I want to instruct you on
 11 legislative privilege not to reveal communications or
 12 thought -- communications relating to voter ID
 13 legislation or your thoughts or mental impressions
 14 relating to voter ID. And I think the question about
 15 committee assignments may invite testimony on that. And
 16 so with that limitation in mind, you can answer the
 17 question.
 18 A. I had one communication.
 19 Q. (By Mr. Freeman) Okay.
 20 A. And but it involved another legislator, so I'm
 21 not going to get into it.
 22 MR. HUGHES: So, Mr. Hughes, this is what
 23 the court has described as a privileged log type of
 24 question. I believe that I phrased the subject matter
 25 pretty broadly. I was trying to avoid any kind of

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1 court's guidance.
 2 Q. (By Mr. Freeman) Who was that other
 3 legislator?
 4 A. Speaker Strauss.
 5 Q. And when did that occur?
 6 A. I think a day or two prior to the announcement.
 7 Q. And was anyone else present?
 8 A. No.
 9 Q. And where did it occur?
 10 A. It occurred -- well, he was somewhere, and I
 11 was on the receiving end of a phone call.
 12 Q. Okay. Did you discuss your assignments with
 13 anyone after they were made?
 14 A. Other legislators.
 15 Q. Any other members of the Select Committee on
 16 Voter Identification and Voter Fraud?
 17 A. No. Well, you know, I mean, I may have bumped
 18 into them and said, "Hey, I'm on the committee with
 19 you."
 20 Q. Okay.
 21 A. But I'm taking a guess.
 22 Q. Okay. Fair enough.
 23 Now, you previously testified that you
 24 were previously on the Elections Committee; is that
 25 correct?

<p style="text-align: center;">89</p> <p>1 A. Yes.</p> <p>2 Q. What sessions were you on the Elections</p> <p>3 Committee?</p> <p>4 A. I think the session before this last one so</p> <p>5 probably the 81st.</p> <p>6 Q. Anything besides that?</p> <p>7 A. I don't recall. It all blends.</p> <p>8 Q. And you were vice chairman of the Elections</p> <p>9 Committee; is that correct?</p> <p>10 A. Yes.</p> <p>11 Q. What is the scope of the Elections Committee's</p> <p>12 authority?</p> <p>13 A. We looked at elections-related bills.</p> <p>14 Q. So any bill related to the Texas elections</p> <p>15 code?</p> <p>16 A. Yeah. But of course, the bill had to be</p> <p>17 referred to that committee. Okay. Because just because</p> <p>18 it's within the purview of one doesn't mean it won't go</p> <p>19 to another.</p> <p>20 Q. And who makes those referrals?</p> <p>21 A. The speaker's office is what I understand.</p> <p>22 Q. And what was your authority as the vice</p> <p>23 chairman of the Elections Committee?</p> <p>24 A. My job was to substitute -- to be the</p> <p>25 substitute for the chairman when he was not present.</p>	<p style="text-align: center;">91</p> <p>1 A. Yes.</p> <p>2 Q. What does it mean to be a second or third</p> <p>3 sponsor of a bill?</p> <p>4 A. That means you're -- you are lending your</p> <p>5 support. There's a lot of symbolism involved. You're</p> <p>6 lending your support and -- and other legislators will</p> <p>7 look upon that as some guidance, at times, depending on</p> <p>8 the legislator. Sometimes they're given to people</p> <p>9 because they asked for them early or they're best</p> <p>10 friends with the author. Sometimes it means nothing</p> <p>11 more than they got there first and the author said okay.</p> <p>12 Q. Is there typically a speaking role on the floor</p> <p>13 in debate associated with a second or third spot?</p> <p>14 A. When it comes to larger bills like the budget,</p> <p>15 yes, it's customary that when it comes to a very large</p> <p>16 bill, that they will break up discussions. But no,</p> <p>17 there's not necessarily a speaking role.</p> <p>18 Q. I'd like to talk to you about your district,</p> <p>19 District 40. Do you know how big your district is in</p> <p>20 square miles?</p> <p>21 A. It's fairly large.</p> <p>22 Q. The Delta area, that's the area to the north of</p> <p>23 Edinburg, correct?</p> <p>24 A. To the east of Edinburg.</p> <p>25 Q. East of Edinburg. Okay. But there's a whole</p>
<p style="text-align: center;">90</p> <p>1 Q. Is it typical for the vice chairman to be of</p> <p>2 the opposing party to the chairman?</p> <p>3 A. That is a recent custom, yes.</p> <p>4 Q. Is there any, as a matter of custom, and this</p> <p>5 doesn't even need to be restricted to the Elections</p> <p>6 Committee, but typically, do the chairman and vice</p> <p>7 chairman organize the members of their party to some</p> <p>8 extent within the committee?</p> <p>9 A. No. That's not been my experience.</p> <p>10 Q. Okay.</p> <p>11 MR. HUGHES: It's like herding cats.</p> <p>12 A. Yeah. Everybody is their own dictator. They</p> <p>13 all decide on their own.</p> <p>14 Q. (By Mr. Freeman) Magic of the legislative</p> <p>15 process.</p> <p>16 Q. Were you aware at the time of committee</p> <p>17 assignments that the Select Committee on Voter</p> <p>18 Identification and Voter Fraud would address only</p> <p>19 in-person voter impersonation and not mail-in fraud</p> <p>20 issues?</p> <p>21 A. I wasn't aware of what bills were going to be</p> <p>22 referred.</p> <p>23 Q. Okay. I guess I have another sort of the</p> <p>24 technical Texas Legislature question for you. Some</p> <p>25 bills have multiple sponsors, correct?</p>	<p style="text-align: center;">92</p> <p>1 swath of northern Hidalgo County that's in your</p> <p>2 district, right?</p> <p>3 A. Yeah. That's what we call the "ranch country."</p> <p>4 Q. Okay.</p> <p>5 A. They're historic ranches, land-granted land</p> <p>6 from the King of Spain to families that are still</p> <p>7 there. They're very proud of that. So that's what we</p> <p>8 call the "ranch land" or the -- yes.</p> <p>9 Q. The ranch land is big, right?</p> <p>10 A. It is big.</p> <p>11 Q. Okay. How would you describe your district in</p> <p>12 terms of its population?</p> <p>13 A. I would assume that it meets the parameters of</p> <p>14 what the population ought to be --</p> <p>15 Q. Do you know --</p> <p>16 A. -- for a district.</p> <p>17 Q. Do you know approximately how big, how many</p> <p>18 people are in a Texas House District?</p> <p>19 A. No.</p> <p>20 Q. Okay.</p> <p>21 A. No. I could take a guess, but I don't know.</p> <p>22 Q. And how would you describe in it terms of its</p> <p>23 demographics?</p> <p>24 A. Okay. Let's start on the west side. There's</p> <p>25 an area called La Joya and Sullivan City. Culturally</p>

<p style="text-align: center;">97</p> <p>1 A. Yes. We've talked about this before in a prior 2 deposition.</p> <p>3 Q. We have.</p> <p>4 A. It used to be when I was a young boy, the Anglo 5 community was the more affluent.</p> <p>6 Q. Uh-huh.</p> <p>7 A. But in the '70s, and after the World War II 8 generation, the Hispanics had a chance to go college, 9 and that generation, my parent's generation got an 10 education. And with NAFTA, and then some of the banks 11 are no longer -- they're owned by local folks, mainly 12 Hispanics. When the banks started giving out access to 13 capital, many of the business people and Mexicans, 14 Mexicans, at least the ones who come over, are quite 15 affluent. At least -- I'm talking about they're 16 affluent people from Monterey and other areas began to 17 move in, in addition to the large poor population.</p> <p>18 Q. Okay.</p> <p>19 A. And -- I don't know. Did I answer -- what was 20 your question?</p> <p>21 Q. I guess my question was, and I can be a little 22 bit more specific --</p> <p>23 A. Okay. But I want to get back to it. I now 24 remember.</p> <p>25 Q. Okay.</p>	<p style="text-align: center;">99</p> <p>1 Q. Most adults?</p> <p>2 A. Yes.</p> <p>3 Q. Would you say that there's any difference 4 between the Anglo and Hispanic communities about who 5 works hourly versus working, as you said, all the time 6 but as more of a salary issue?</p> <p>7 A. Those differences were stark prior to the '70s.</p> <p>8 Q. Okay.</p> <p>9 A. Okay. Thanks to good lawyers like this 10 gentleman over here (indicating Mr. Garza) and some of 11 the civil rights changes and things have changed. 12 Hispanics became empowered and are now the leaders of 13 the community. And we are moving slowly, some of us, 14 into a post -- I want to believe a post-racial era.</p> <p>15 I'm sorry. I lost your question.</p> <p>16 Q. No. I was just asking if you thought that 17 there was a difference in terms of between Anglo and 18 Hispanic communities --</p> <p>19 A. Yeah.</p> <p>20 Q. -- where the folks are more likely to work 21 hourly wage type of jobs?</p> <p>22 A. The Anglo community is smaller today in 23 comparison to the -- prior to the '70s. Many of the 24 children of the Anglo families have moved on to 25 San Antonio --</p>
<p style="text-align: center;">98</p> <p>1 A. Today, the very affluent tend to be Mexican or 2 Mexican-American. Anglos run in two streams. They're 3 either the working class, oil field workers, truck 4 drivers, or farmers, descendants of farmers. But many 5 of those folks on the lower end of the spectrum, a lot 6 of them have intermarried, so they're -- you know, 7 they're this new kind of folk. They're like the rest of 8 us -- mutts. They're mixed. They're all -- you know 9 what I mean? They're all mixed.</p> <p>10 Q. Yep.</p> <p>11 A. But then you have recent -- recent Anglos who 12 come in but they're working class folks. Then you have 13 this very wealthy elite, but it's a small group of 14 people.</p> <p>15 Q. Okay.</p> <p>16 A. You will have the university community with 17 their professors and what not, and they're like regular 18 folks. But I would say the most affluent in our 19 community are Mexicans or Mexican-Americans.</p> <p>20 Q. Okay.</p> <p>21 A. Mainly Mexicans.</p> <p>22 Q. So you previously said that a lot of your 23 district is working class. Would you say that many of 24 the adults work for hourly wages?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">100</p> <p>1 Q. Okay.</p> <p>2 A. -- and Dallas and other places. Because they 3 wanted to marry. And they -- prior to the '70s, it was 4 -- it was -- there was social limitations on marrying 5 other Hispanics. Today, I don't think those -- those 6 limitations are generally not there. And amongst the 7 poor, amongst the working class, they're not there. I 8 mean, Anglo work poor will marry Hispanic poor 9 because -- but in the old days, prior to the '70s, I'd 10 say those limitations were there.</p> <p>11 Q. Okay. By the way, let the record reflect that 12 when Representative Pena said that there was a good 13 lawyer over there, he was pointing at Mr. Jose Garza.</p> <p>14 A. Jose Garcia has been involved in many of those 15 civil rights cases and --</p> <p>16 Q. Does it -- do a lot of the Hispanic families in 17 your district not own cars?</p> <p>18 A. Most people own cars.</p> <p>19 Q. Are there some who don't?</p> <p>20 A. Yeah, like me.</p> <p>21 Q. Is there public transportation in your 22 district?</p> <p>23 A. Yes. Not in the Delta area, not in La Joya- 24 Sullivan. And you know what, probably not in the 25 Edinburg either. But there is in McAllen.</p>

<p style="text-align: center;">101</p> <p>1 Q. Okay. How many precincts are there in your 2 district? 3 A. I can't answer that. 4 Q. Do you know how many polling places there are? 5 A. No. I can't answer that. 6 Q. More than ten? 7 A. That's a good guess. 8 Q. Do you know how many driver's license offices 9 there are in your district? 10 A. I'm aware of one. 11 Q. Would you agree that for most voters, a polling 12 place is closer than a driver's license office? 13 A. Yes. 14 Q. How long does it usually take a voter to cast 15 their ballot in person? 16 A. Depending on the election and who the 17 candidates are, whether or not it's a presidential cycle 18 or a gubernatorial cycle, I'll just take an average from 19 my personal experience, 15 minutes. 20 Q. You described your constituents as being 21 working class, some of them as living on public 22 assistance. 23 A. Most of them. 24 Q. And would you say that a lot of your 25 constituents need all the wages that they make?</p>	<p style="text-align: center;">103</p> <p>1 but just a couple of additional questions about 2 that. Do you know how many registered voters in Texas 3 lack a driver's license, state ID card or a license to 4 carry a concealed weapon? 5 A. You know, I've seen the numbers reported in the 6 newspaper, and I've seen the argument made by, I guess, 7 yourselves that have been reported in the paper, but I 8 don't recall the number. 9 Q. Did you ever try to find out what that number 10 was at any point, you actively try? 11 A. You mean, do I go around in my district and 12 say -- and do a sample survey and say how many people 13 have a license or don't? 14 Q. That is not what I meant. 15 A. Okay. 16 Q. I'm wondering if you ever, you know, asked 17 with -- concerning voter ID, whether you ever tried to 18 find out from DPS -- 19 A. Those arguments -- 20 MR. HUGHES: Hold on. I'm going to 21 instruct him with respect to legislative privilege, to 22 not reveal the substance of any communication that you 23 had concerning SB 14 or other legislation with any 24 legislators, legislative staff, or with any state 25 agency.</p>
<p style="text-align: center;">102</p> <p>1 A. I think we all do. 2 Q. Would you agree that having to take a few hours 3 off from work would be a burden for those people? 4 A. You mean to go vote? 5 Q. For any purpose? 6 A. Would be a burden, is that what you said? 7 Q. Yeah. 8 A. It would be an inconvenience, but it's not 9 significant. Look, voting in itself is an 10 inconvenience, but it's a duty that we, I think we 11 should have. 12 Q. For some of your constituents, would an 13 unexpected \$22 expense be a burden? 14 A. For me that would be a burden. 15 Q. Okay. Is there high voter turnout in your 16 district? 17 A. You know, this last election cycle, we had one 18 of the highest turnouts when it comes to early voting. 19 Q. Okay. 20 A. But I will say that Hispanics, in general, do 21 not vote on the level of the general population, 22 whatever that means. And that's a nationwide phenomena. 23 Q. So I'd like to talk to you about forms of 24 photographic identification in Texas. We talked about 25 this a little bit with the card you had in your wallet,</p>	<p style="text-align: center;">104</p> <p>1 And Mr. Freeman is entitled to ask certain 2 foundational questions, but by fine-tuning the subject 3 matter like you're doing, you're getting into the 4 legislative privilege, so you need to kind of get more 5 general. So let's try again. 6 MR. FREEMAN: Okay. I'll actually just 7 withdraw the question and take a step back. 8 Q. (By Mr. Freeman) You said you did at some 9 point see some information or arguments made. Do you 10 know when you saw about the number of people who lack 11 IDs, do you remember when that was? 12 A. I've seen it in the paper. I don't recall 13 when. I think arguments were made on the floor. 14 Q. Okay. Did you ever see any specific numbers? 15 A. You know -- I can recall seeing it. 16 Q. Okay. 17 A. But I don't recall the number. 18 Q. Was that before May of 2011? 19 A. I don't know. 20 Q. Okay. Do you have any understanding of whether 21 some groups are more likely than others to lack those 22 types of ID? 23 A. I assume that -- I'm making an assumption, 24 based on observation, that this has to do with 25 educational levels and economic levels.</p>

<p style="text-align: center;">105</p> <p>1 Q. I would describe that as inductive logic rather 2 than an assumption. 3 If -- and so you'd say that poor people 4 are more likely to not have these types of ID, correct? 5 A. They're less likely than affluent people. 6 Q. Yes. Are poverty rates in Texas similar across 7 racial groups? 8 A. No. As I've described, prior to the '60s and 9 after the civil rights movement, Hispanics were largely 10 poor and undereducated. And it's only been a generation 11 or two that we've been able to emerge. You know, 12 emerge. 13 Q. Okay. But as of right now, isn't it the case 14 that Hispanics are much more likely to be poor than 15 Anglos in the state of Texas? 16 A. I would -- you know, where I live. Okay. Your 17 question, let me answer your question. 18 Q. Thank you. 19 A. I would say yes. 20 Q. Are you aware that Texas recently informed the 21 Attorney General that it was the state's belief that 22 there are 795,955 registered voters in the state of 23 Texas who lack a Texas driver's license, identification 24 card or a license to carry? 25 A. I'm aware that you all -- that you all --</p>	<p style="text-align: center;">107</p> <p>1 Q. Less than 70 percent. 2 A. Is it -- that is information that the Justice 3 Department -- 4 Q. It's numbers that were given to the Justice 5 Department by the State of Texas. 6 A. Okay. No. I was not aware of that. 7 Q. Do you know where a voter can obtain an 8 election identification certificate? First off, are you 9 familiar with the term "election identification 10 certificate"? 11 A. I've heard that referenced. Yes. 12 Q. Is that the type of identification that is made 13 available to voters under SB 14? 14 A. That's the -- 15 Q. The new type -- 16 A. -- free ID, yes, as it's described commonly. 17 Q. Do you know where a voter can get that? 18 A. I assume at the DPS office. I don't know. 19 Q. Does SB 14 require employers to provide paid 20 leave to go obtain an ID? 21 A. I don't think that's in there. 22 Q. If an individual had to travel from the ranch 23 country, the northern part of your district, to a DPS 24 office in Edinburg, that would take -- that would take a 25 good amount of time, right?</p>
<p style="text-align: center;">106</p> <p>1 people from your position have made that assertion. 2 I've seen it in the paper. 3 Q. Are you aware of whether the state has agreed 4 with that assertion? 5 A. Oh, I don't know. If you tell me it has, then 6 great. 7 MR. FREEMAN: Well, let's -- if we can 8 have this marked as U.S. 371? 9 (Exhibit U.S. 371 marked for 10 identification.) 11 Q. (By Mr. Freeman) If you can just take a look 12 at that for a moment. 13 A. Why don't you tell me what it says. 14 MR. HUGHES: I want you to take the time 15 to look at it -- 16 THE WITNESS: Oh, okay. 17 MR. HUGHES: -- see if you have questions 18 about it. 19 THE WITNESS: Oh, okay. 20 Q. (By Mr. Freeman) Okay. Are you aware that 21 Texas, that the State of Texas provided data to the 22 Attorney General stating that less than 70 percent of 23 the Spanish surnamed registered voters in Hidalgo County 24 have those types of necessary ID? 25 A. Less than 70 percent?</p>	<p style="text-align: center;">108</p> <p>1 A. 20 minutes, 30 minutes, maybe, the furthest 2 reaches of the county. 3 Q. Okay. And you said earlier that at a minimum 4 it would take 15 minutes to go through a transaction at 5 the driver's license office, right? 6 A. Yes. Yes. 7 Q. And then you got to drive back? 8 A. Yes. 9 Q. So that's an hour off from work at least, 10 right? 11 A. Yes. 12 Q. And so that's going to cost a voter, if they 13 have to go get that ID, that's going to cost them money, 14 right? 15 A. Yeah. 16 Q. In gas, wages? 17 A. Yes. 18 Q. And given that we talked about how the poorer 19 people are more likely not to have ID, would you guess 20 that those are going to be some of the same people who 21 don't have cars? 22 A. Nearly everybody has a car. Okay? But I can 23 say that there are some people without cars, because as 24 I said, I don't have a car. My wife and daughter have a 25 car.</p>

<p style="text-align: center;">109</p> <p>1 Q. Do you think that the loss of wages and the 2 cost of gas to drive back and forth has -- may deter 3 some voters from going to get an ID if they don't have 4 one?</p> <p>5 A. Okay. May deter? Okay. You want me to answer 6 your specific question and not anything else, right?</p> <p>7 That could deter somebody.</p> <p>8 Q. What if -- what if the time at the office were 9 more like two hours or three hours, would that -- would 10 that probably deter some people?</p> <p>11 A. You mean the office times?</p> <p>12 Q. Yeah.</p> <p>13 A. Yeah. That could deter somebody.</p> <p>14 Q. Do you think that a -- if it cost \$22 to get a 15 document that you needed to get that election 16 identification certificate, would that \$22 cost deter 17 some people from voting?</p> <p>18 A. Okay. I'm making an assumption based on human 19 behavior. Okay? But I assume it could be somebody 20 that's deterred.</p> <p>21 Q. You said that some people had described the 22 election identification certificate as a free ID. But 23 if you need to pay money to get a document that you need 24 to get that free ID, is the ID really free?</p> <p>25 A. Okay. You're making an argument. I don't know</p>	<p style="text-align: center;">111</p> <p>1 A. I don't know how to answer your question.</p> <p>2 Q. Will it cost money to that person, the process 3 that they go through to get the certificate?</p> <p>4 A. Look, if you need to get a certificate, that 5 will cost you money.</p> <p>6 Q. Okay.</p> <p>7 A. Okay?</p> <p>8 MR. FREEMAN: You know, lunch is ready, 9 and I'm at a good spot to take a break. I know we want 10 to take a short lunch.</p> <p>11 MR. HUGHES: Let's go off the record.</p> <p>12 MR. FREEMAN: Off the record.</p> <p>13 (Recess from 12:21 to 12:59 p.m.)</p> <p>14 MR. FREEMAN: And we are back from lunch.</p> <p>15 Q. (By Mr. Freeman) Representative Pena, you 16 first ran in 2002; is that correct?</p> <p>17 A. Yes. It could have been 2001, but...</p> <p>18 Q. But the election was 2002?</p> <p>19 A. Yes.</p> <p>20 Q. And was election integrity an issue at all in 21 that campaign?</p> <p>22 A. Yeah. I mean, I've always been a good 23 government guy. That was not my primary focus at the 24 time.</p> <p>25 Q. What position did you take with regard to</p>
<p style="text-align: center;">110</p> <p>1 what to say. I don't know what to say to you.</p> <p>2 Q. I'm asking a question.</p> <p>3 A. It is a fair description, generally speaking,</p> <p>4 to say "free ID." Okay. But the point you're making is</p> <p>5 also a fair description based on your perspective.</p> <p>6 Q. For an individual who does not have a copy of</p> <p>7 their birth certificate, if it costs them \$22 to get a</p> <p>8 copy of their birth certificate, and if they need that</p> <p>9 birth certificate to get the election identification</p> <p>10 certificate, for that individual is the election</p> <p>11 identification certificate free?</p> <p>12 A. You make a good point, but the ID is still</p> <p>13 free.</p> <p>14 Q. Is it effectively free? Is there a cost to</p> <p>15 that individual that they must --</p> <p>16 A. Well, everything --</p> <p>17 Q. -- incur to get that ID?</p> <p>18 A. Everything in life has a cost. You know. The</p> <p>19 point you make is a good argument, but the ID is still</p> <p>20 free. And I don't know what else to say.</p> <p>21 Q. Is it possible to get that ID without spending</p> <p>22 any money for an individual who doesn't have a copy of</p> <p>23 their birth certificate or any of the other documents</p> <p>24 that they need, if they have to pay for the birth</p> <p>25 certificate?</p>	<p style="text-align: center;">112</p> <p>1 election integrity in 2002?</p> <p>2 A. I don't understand. It was not a movement for</p> <p>3 this bill that I can recall.</p> <p>4 Q. Okay. Did you -- did you say anything about</p> <p>5 cleaning up elections in your 2002 campaign?</p> <p>6 A. You know what, I didn't experience what I -- it</p> <p>7 was my first election cycle, and that's when I got hit</p> <p>8 with what is required to get elected in my -- where I</p> <p>9 live. And that was my first --</p> <p>10 Q. Okay.</p> <p>11 A. -- full-blown experience of the uniqueness of</p> <p>12 my area.</p> <p>13 Q. We'll talk about that uniqueness in a moment.</p> <p>14 How about 2004; was it an issue at all?</p> <p>15 A. As we move forward, I began to speak out more.</p> <p>16 I don't remember when. But as we moved forward, oh,</p> <p>17 yeah, I spoke out.</p> <p>18 Q. Okay.</p> <p>19 A. I mean, I think even a, I think, YouTube video</p> <p>20 out there somewhere where I'm speaking out.</p> <p>21 Q. And what aspects of elections did you speak you</p> <p>22 about?</p> <p>23 A. Corruption.</p> <p>24 Q. What type of corruption?</p> <p>25 A. We had a fire bombing of a political camp. It</p>

<p style="text-align: center;">113</p> <p>1 was a Molotov cocktail, and I spoke out against that. 2 Q. At the campaign office? 3 A. Yeah. 4 Q. Anything else? 5 A. The use of politiqueras, on the abuse of the 6 use of them. Look, they perform a valuable function in 7 terms of getting people out to vote who otherwise -- you 8 know, constitutionally and from a good government 9 perspective, it's important to get people out to vote. 10 It's when they cross the line, that's it's offensive. 11 Q. Okay. We'll talk about politiqueras a little 12 bit more later. 13 A. Okay. 14 Q. I just want to focus for a moment on positions 15 that you took in your campaigns with regard to 16 corruption and election integrity. 17 So other than the fire bombing incident 18 and the abuse of politiqueras, was there anything else? 19 A. Paying the voters, paying voters to vote. 20 Q. Okay. 21 A. Using government vans, school district vans to 22 haul voters to the polls. The emptying of day care -- 23 adult dare care centers, and paying off the manager of 24 the center; things of that nature. 25 Q. Anything else specific that you can remember</p>	<p style="text-align: center;">115</p> <p>1 election integrity problems? 2 A. We talked about it, but it was not the dominant 3 form of voter fraud. 4 Q. Do you know when you talked about it in your 5 campaign? 6 A. No, I don't remember that. 7 Q. Do you remember, was it a speech? Was it a 8 mailer? 9 A. These are not -- the audience is not 10 necessarily that receptive -- 11 Q. Okay. 12 A. -- to that speech. But it became so offensive, 13 that I just said, "What the hell am I here for? I'm 14 going to speak up on this." 15 Q. Did you -- did you ever talk about voter ID as 16 a solution during your campaigns? 17 A. At some point, I'm sure I did. 18 Q. Prior to 2010? 19 A. Okay. Not this last cycle. 20 Q. Uh-huh. 21 A. But the cycle before that, voter ID was 22 significant, if I recall correctly. I did speak about 23 it then. 24 Q. Did you had opposed voter ID in 2009, hadn't 25 you?</p>
<p style="text-align: center;">114</p> <p>1 talking about in your campaigns? 2 A. Initially -- okay. I know I'm only supposed to 3 answer the question, but initially, because of 4 recommendations from my staff, I was not as vociferous 5 as I should have been. But I grew stronger in my 6 opposition, as things progressed, because it was bad. 7 Mail-in ballots. I did speak about that a lot. People 8 walk in with ballots in their hands and say, "Hey, you 9 want to buy these from me?" And I'd said, "This can't 10 be legal." 11 Q. Did you ever report any of those incidents to 12 the District Attorney or the Attorney General's Office 13 or anything like that? 14 A. To answer your question, no, but there are 15 reasons for it. 16 Q. Were those individuals -- and I won't ask you 17 to name names, because it's not particularly relevant, 18 but were those individuals politically involved in 19 Hidalgo County? 20 A. In order to get elected in Hidalgo County, 21 everybody looks the other way or is a participant. 22 Q. Okay. 23 A. I'm talking about elected officials. 24 Q. Yeah. Did you ever campaign on mentioning 25 issues of in-person voter impersonation as one of those</p>	<p style="text-align: center;">116</p> <p>1 A. Okay. Now, you're getting into the days -- the 2 dates are confused in my mind. 3 Q. Okay. 4 A. I think I commented on it in my blog that it 5 was -- I didn't think it was appropriate. 6 Q. And then did you -- did you ever take a 7 position, in your 2010 campaign, that it was 8 appropriate? 9 A. 2010? 10 Q. The last time you ran. 11 A. No. No. It wasn't until -- I remember sitting 12 with my chief of staff and saying, "I'm going to support 13 this." 14 Q. Do you remember when that was? 15 A. No. 16 Q. Was it just in this last session? 17 A. I don't remember. It was prior to the last 18 session. 19 Q. So I would like to talk to you about some of 20 these Hidalgo County election issues that you have been 21 mentioning. 22 A. Okay. Yes. 23 Q. Sure. What were you about to say? 24 A. It's not just Hidalgo County. Okay? But since 25 that's where I live, that's what I focus on.</p>

<p style="text-align: center;">117</p> <p>1 Q. Okay. Would you say that these issues are 2 endemic to South Texas?</p> <p>3 A. Yes.</p> <p>4 Q. Okay.</p> <p>5 A. But -- yes. Okay. To answer your question, 6 yes.</p> <p>7 Q. Okay.</p> <p>8 A. But they are in other areas as well.</p> <p>9 Q. So let's focus on Hidalgo County, just because 10 your knowledge of Hidalgo County is best --</p> <p>11 A. Yes.</p> <p>12 Q. -- than other counties, correct?</p> <p>13 A. Yes.</p> <p>14 Q. So let's focus on Hidalgo County. 15 How would you describe political 16 campaigning in Hidalgo County?</p> <p>17 A. It's in transition, but the traditional method 18 of campaigning is, as -- I didn't notice it at the time 19 when I ran, but this is what I've come to learn -- is 20 you go to the political bosses in the community. And by 21 that I mean, well, political bosses, I think you 22 understand what I mean by that.</p> <p>23 And at the time when I first started, 24 there were multiple political bosses. Now, they have 25 consolidated to some degree. But you go over there, you</p>	<p style="text-align: center;">119</p> <p>1 in the past, it was, they would say, "This is who you're 2 voting for." Now, to my advantage is, no one remembered 3 what they told them to do, and they remembered me, 4 because I have a -- my father was a prominent figure 5 from the Delta area, so we always kind of won out that 6 way. Today, though, assisted voting is the crime, the 7 voter fraud of choice.</p> <p>8 Q. Okay.</p> <p>9 A. They go in and say, "Hey, we want to assist 10 you. You need to ask for us to assist you." And they 11 will say yes because they want to continue their 12 employment or their family's employment with some of 13 the local government jobs, usually a school district. 14 And if you refuse, well, you're deemed not to be 15 loyal. You're too independent for them.</p> <p>16 And so you have some areas, like in the 17 Delta area, like in Hidalgo, like in the Mid Valley, and 18 this phenomena is growing, where assisted voting is now 19 the -- the voter fraud of choice.</p> <p>20 Now, mail-in ballots, it used to be really 21 strongly abused, but after Steve Wolens passed a bill 22 restricting -- or increasing punishments for it -- Steve 23 Wolens is a member from Dallas.</p> <p>24 Q. Uh-huh.</p> <p>25 A. That strongly diminished things, so -- and</p>
<p style="text-align: center;">118</p> <p>1 kiss their ring and you ask for their blessing. They 2 usually want money. It's either said or inferred, okay?</p> <p>3 Now, I'm not speaking of personal 4 knowledge, because nobody asked me, nobody directly 5 asked me for money. They want to hire their ladies, 6 hire their ladies, which means hire their crew of 7 politiqueras. Once you get the blessings of certain 8 people, then other sub bosses fall in line. Then you 9 look to the dominant families of the community. You 10 know, hopefully you mimic the -- your population as a 11 whole in terms of their issues. Hopefully you come from 12 a family that's respected. And you got out and meet 13 people. In the Delta area, we have competing clubs. We 14 now have three, where we used to have two during my 15 period, the TACO and the BEE Club. And you go and you 16 pitch yourself to them. And they typically want money 17 in exchange. Well, it is implied that the money is in 18 exchange for an endorsement. And then they have their 19 ladies that go out and gather people together.</p> <p>20 It's not something I did, but it is well 21 known that you -- there are certain people you can go 22 to, to buy elderly day care centers. By "buy" I mean 23 you hire the leader who leads the ladies to go in to 24 vote. And they strongly suggest, in the past, now they 25 just do it there with them with assisted voting -- but</p>	<p style="text-align: center;">120</p> <p>1 then, for those independent voters in Edinburg or 2 McAllen or somewhere, you would make a pitch.</p> <p>3 Q. Okay.</p> <p>4 A. You know, "Hey, let me tell you why I'm the 5 best guy, because I didn't get arrested for drug 6 dealing," you know? My first opponent was arrested for 7 selling drugs, and he was a convicted felon in Mexico. 8 But since he wasn't arrested here, the argument was that 9 he was not a convicted felon in the States. I just 10 wanted to beat him. I didn't care about that issue. 11 And, you know, you hope that the independent voter, the 12 election day voter -- it was traditionally an election 13 day voter which is the independent voter -- would carry 14 you. That was my support.</p> <p>15 Q. Uh-huh. So the voter assistance and the issues 16 with regard to mail-in ballots, is that what you 17 previously referred to in the media as voter harvesting?</p> <p>18 A. I used the term "voter harvesting" because 19 Steve Wolens used that specific language when he 20 presented the bill.</p> <p>21 Q. Okay.</p> <p>22 A. He never used that word in the Valley, we said 23 "politiqueras."</p> <p>24 Q. Okay.</p> <p>25 A. And as I said, being a politiqueras is not a</p>

<p style="text-align: center;">121</p> <p>1 bad thing in itself. All it means is, is if you're a 2 political person, a female political person, or a 3 political person, is when they cross the line, and then 4 it becomes inappropriate.</p> <p>5 Q. So politiqueras, they're mostly women? There 6 are a few politiqueros?</p> <p>7 A. Yeah, they're mostly women.</p> <p>8 Q. Okay. Have you ever hired any politiqueras?</p> <p>9 A. In my first cycle, yes, I did.</p> <p>10 Q. Okay. And what was the role for politiqueras 11 in your election?</p> <p>12 A. Well, forgive me. In my first cycle, I hired 13 somebody who hired them, okay?</p> <p>14 Q. Yeah. What was the role of the politiqueras?</p> <p>15 A. As I understood it, their job was to go and 16 advocate in the community.</p> <p>17 Q. Okay.</p> <p>18 A. And particularly to some of the poorer elements 19 in the community. And I was unaware of the adult day 20 care centers and I was unaware of a lot of the other 21 stuff I have now described to you.</p> <p>22 Q. And current law doesn't address all of these 23 issues that you have described with regard to 24 politiqueras, correct?</p> <p>25 A. Yeah, as I said, it's not -- it's like being a</p>	<p style="text-align: center;">123</p> <p>1 you think are improper, correct?</p> <p>2 A. Yeah. Current law needs to be refined to 3 address specific circumstances. But it's a delicate 4 balance, because there are a lot of constitutional 5 questions involved. Somebody has got to care, because 6 I'm not sure -- I'm not sure we've reached that point of 7 viability where people are concerned about the question.</p> <p>8 Q. Okay.</p> <p>9 A. On the specific questions I have raised.</p> <p>10 Q. Were there any in-person voter impersonation 11 issues that came up in any of your campaigns, where a 12 voter came up and said --</p> <p>13 A. In-person impersonation?</p> <p>14 Q. Uh-huh.</p> <p>15 A. One of my staff members told me that his father 16 had voted against me, and I said, "Why?" He said, 17 "Well, he's been dead for five years." So somebody 18 impersonated him.</p> <p>19 Q. How did you know the vote was against you?</p> <p>20 A. That's what he told.</p> <p>21 Q. Okay. So you couldn't have known whether the 22 vote was for or against you, correct?</p> <p>23 A. That's what he told me.</p> <p>24 Q. But you'll agree with me that we have ballot 25 secrecy laws in the United States, right?</p>
<p style="text-align: center;">122</p> <p>1 lawyer. There's nothing wrong with being a lawyer. 2 It's when you cross the line that it's inappropriate. 3 There's nothing wrong being a politiquera; it's when you 4 cross the line that it's inappropriate.</p> <p>5 So is there anything in the law? I'm sure 6 there -- there is something the law about intimidating 7 voters. There is something in the law about other 8 things like that. But what I have found is, nobody 9 advocates for cleaning it up, because everybody depends 10 on it, where I'm from.</p> <p>11 Q. Okay.</p> <p>12 A. Now, Steven Wolens encountered it because 13 what -- what happens in the border has been moved to 14 Dallas, and Steve Wolens had it apply to him, so he 15 spoke up.</p> <p>16 Q. Okay.</p> <p>17 A. So when I spoke up, I was generally met with 18 resistance from the elected politicians who said, "What 19 are you doing? We've got a good thing going here. Why 20 are you doing this?"</p> <p>21 Q. And you've advocated for changes in laws that 22 would rein in some of these practices, correct?</p> <p>23 A. Yes, sir.</p> <p>24 Q. So you -- based on that, you believe that 25 current law doesn't address all of these practices that</p>	<p style="text-align: center;">124</p> <p>1 A. Well, okay. Look, I've never checked the 2 point, okay?</p> <p>3 Q. Yeah.</p> <p>4 A. He just said it to me. But this fellow who 5 worked for me is from the area and knows the inner 6 workings of the area. So if that's what he said, I had 7 no reason to doubt what he said. It's not a -- it's 8 within the realm of possibility, okay?</p> <p>9 Q. Sure. But you don't have -- you don't real 10 proof that it happened other than him saying it, 11 correct?</p> <p>12 A. No, I just -- I just trust what he said. He 13 has no reason to say it to me.</p> <p>14 Q. And did he say that that was in person, or did 15 he say that someone had voted in person as his father?</p> <p>16 A. All he said was, "Hey, my dad voted against 17 you." And I said, "How did he do that?" He said, 18 "Mr. Pena, my dad has been dead for five years." And I 19 said, "Really? Who told you that?" And he says -- I 20 don't remember what he said after that, but he somehow 21 knew.</p> <p>22 Q. Okay. But he didn't say, "My dad voted 23 in-person against you"?</p> <p>24 A. No, he didn't.</p> <p>25 Q. Okay. Any other in-person issues?</p>

<p style="text-align: center;">125</p> <p>1 A. Well, like I said, everything I tell you is 2 going to -- what I'm going to tell you next is what 3 somewhat hearsay, because I only hear what people tell 4 me, okay? 5 Q. Sure. 6 A. They'd say at the -- at the polling -- at the 7 elections office, that individuals would know who did 8 not vote or whose ballot has not been cast, and they 9 somehow would get those votes or ballots to somebody 10 else to cast in those persons' names. 11 Q. Uh-huh. 12 A. We were always concerned that that was going to 13 be applied to us. 14 Q. Uh-huh. 15 A. You know, because I had the machine working 16 against me for two or three of the cycles. And so we 17 were always concerned that we'd win the independent vote 18 but we'd lose through these manipulations. So we 19 watched, to the extent we could watch. But these are 20 well established practices that I had no way of knowing 21 or infiltrating. I was simply told. 22 Q. Okay. And so with regard to knowing who hadn't 23 voted yet, using those votes, is that being done by the 24 person running the polling place? 25 A. Well, look, if you operate the machine, the</p>	<p style="text-align: center;">127</p> <p>1 be mail in, right? 2 A. Yeah. 3 Q. Okay. So voter ID won't do anything about 4 that, right? 5 A. Right. 6 Q. Okay. And am I correct that there were 7 indictments in McAllen in 2006 related to the 2005 8 mayoral election? 9 A. Yeah. That's one of these fellows who -- yes. 10 Q. What are the alleged crimes? 11 A. Well, he was taped, and I think he was willing 12 to sell votes. He was a well known -- well, he was a 13 son of a politiquera. 14 Q. Okay. 15 A. And he was -- he was a politiquero in training, 16 okay? 17 Q. Okay. Got it. 18 A. And he went to, I think, Olthal Brand, Jr. and 19 said, "Hey, I've got all these ballots. Would you like 20 to buy them?" 21 Q. Okay. But those were for mail-in ballots? 22 A. Yeah, that's got to be what it is. 23 Q. Okay. So, again, this isn't an issue that had 24 to do with voter ID, right? 25 A. No.</p>
<p style="text-align: center;">126</p> <p>1 political machine -- 2 Q. Uh-huh. 3 A. -- or machines? 4 Q. Uh-huh. 5 A. You want to make sure that you have people in 6 there. 7 Q. Yeah. 8 A. The people in office are part of the political 9 process, and they are part of the machine many times, so 10 they have people in there, so that they won't get 11 screwed from the other side who's got people in there. 12 You know what I mean? 13 Q. No, I understand what you mean completely. 14 If the people in the precinct, though, are 15 part of the fraud, a voter -- 16 A. No. This is the election office. 17 Q. In the election office. 18 A. This is the way it was described to me. 19 Q. Okay. Not in the precinct? 20 A. I don't know. The time I told you about where 21 people were -- they looked for people who hadn't voted, 22 and they then they passed out ballots -- 23 Q. Yep? 24 A. -- was in the elections office. 25 Q. Okay. So passing out ballots, that's going to</p>	<p style="text-align: center;">128</p> <p>1 Q. And there weren't actually convictions in the 2 end; is that right? 3 A. You rarely have convictions. But to answer 4 your question, no. 5 Q. Okay. 6 A. But just as a commentary, you're not going to 7 have convictions. 8 Q. Are there any other indictments in Hidalgo 9 County that you remember in recent time about like 10 election crimes like this? 11 A. Like this? 12 Q. Uh-huh. 13 A. They occur on occasion, but they always go 14 away. 15 Q. Are you aware of any other incidents of proven 16 in-person voter impersonation that have occurred in your 17 district? 18 A. Proven you mean like a conviction? 19 Q. A conviction or established fact in some other 20 way, an admission. 21 A. No. 22 Q. Anything else in Hidalgo County? 23 A. None that I can recall. 24 Q. Anything else in the state of Texas? 25 A. Yeah. Recently in Fort Worth, there was</p>

<p style="text-align: center;">129</p> <p>1 something. 2 Q. Was that a conviction or just an allegation? 3 A. Oh, okay. I think he was convicted, was he 4 not? 5 Q. In Fort Worth? 6 A. This was like a judge -- forgive me. I read it 7 in the paper. 8 Q. It was just recent, though, right? 9 A. It was just recent. 10 Q. Anything other than that incident? 11 A. Yeah. There have been others. You mean voter 12 fraud crimes? 13 Q. In-person voter impersonation. 14 A. Oh, in-person? 15 Q. Uh-huh. 16 A. No, I'm sorry, I don't recall that. 17 Q. Okay. You know, I think we discussed briefly 18 before, but what is Texas's current system, before SB 14 19 is implemented, if it is implemented, for determining a 20 voter's identity when they show up at the polling place 21 to vote? 22 A. What is the procedure? 23 Q. Yeah. 24 A. Well, normally, you have your voter card. 25 Q. Okay.</p>	<p style="text-align: center;">131</p> <p>1 person there controlling things. 2 Q. Okay. Okay. But if you're the person there 3 controlling things, and if SB 14 were in place, that 4 wouldn't make a difference, either, correct, because you 5 would just tell them, who cares about the driver's 6 license, just let them vote? 7 A. Okay. So, your question again? 8 Q. So you were saying under the current law, if 9 you wanted to commit in-person voter impersonation, you 10 would just go to a polling place where you controlled 11 the poll workers? 12 A. Right. 13 Q. And then they wouldn't have to show the voter 14 registration card. 15 A. Right. 16 Q. But if SB 14 were in place and a voter ID 17 requirement were in place with a photo voter ID, you 18 would just tell the poll workers who were yours to 19 control, "Don't make them show a photo ID," just like 20 you wouldn't have them show a voter registration card, 21 right? 22 A. That's what I would do. 23 Q. Okay. So SB 14 wouldn't solve that, would it? 24 A. I don't know. 25 Q. Well, how would it solve it?</p>
<p style="text-align: center;">130</p> <p>1 A. And I assume there's a presumption that that's 2 you who signed. 3 Q. Okay. 4 A. You have an ID, which is what I think most 5 people do. 6 Q. Okay. 7 A. And you sign. 8 Q. And so under the system that exists now, what 9 would someone have to do to commit in-person voter 10 impersonation? 11 A. You want me to give you an example -- 12 Q. Sure. 13 A. -- of what they would do? 14 Q. Yeah. 15 A. This is what I would do: If I was in the 16 Valley, I'd find a polling place that is rarely used 17 probably one out in a small little colonia that nobody 18 goes to, and I'd make sure that the campaign workers 19 were my campaign workers. And then I'd figure out the 20 people who had not voted, especially on the last day. 21 And I'd say, "These people haven't voted. Come on in 22 and vote," and they would simply come in and vote. 23 Q. But wouldn't they have to show a registration 24 card? 25 A. Not if you're the person. Not if you're the</p>	<p style="text-align: center;">132</p> <p>1 A. Well, let me just say this, that once the 2 message is communicated back home that the government is 3 getting involved in taking care of the corruption, just 4 like when the W bill passed -- 5 Q. Uh-huh. 6 A. -- there was a chilling effect on the 7 corruption. I think that if you pass a bill like this, 8 it sends a message of confidence, and it will have a 9 chilling effect on the corruption. It may not solve it 10 all. 11 Q. Okay. 12 A. I doubt that you will eliminate the sins of 13 man, but you'll at least, you know, have -- there will 14 be a sense that somebody is paying attention. 15 Q. So is it your opinion that the current voter 16 identification system does not create a sense that 17 someone is paying attention? 18 A. I think we are striving -- okay. I think the 19 general public is frustrated. 20 Q. Okay. 21 A. And they're frustrated with government in 22 general. They're frustrated with our institutions. 23 They're frustrated with a lot of things, and they want 24 to have a solution, and this is one they've latched on 25 to, for whatever reason.</p>

<p style="text-align: center;">133</p> <p>1 Q. Okay.</p> <p>2 A. And so by voting for the bill, if this is what</p> <p>3 they want -- and even if it's a piece of symbolism, it</p> <p>4 has value. Now, I would say it goes beyond symbolism,</p> <p>5 because it does have value. So I do think it's</p> <p>6 important that we stand up.</p> <p>7 Q. Do you feel that some of that symbolic value is</p> <p>8 lost if the law at issue disenfranchises some people?</p> <p>9 A. Let me tell you. That's the question for the</p> <p>10 court, okay? And as I've said to you, make your case.</p> <p>11 And the question really is: Is this impediment, this</p> <p>12 minor impediment, what I consider a minor impediment, is</p> <p>13 it significant enough that it's illegal? And that's the</p> <p>14 question you're going to raise.</p> <p>15 But what we were told is that the law that</p> <p>16 we passed was very similar to, I think, an Indiana law,</p> <p>17 which had already ruled constitutional. Now, they did</p> <p>18 not have preclearance requirements. And so we sought to</p> <p>19 take the course of least resistance, which was to have a</p> <p>20 law that was basically like the one that was found to be</p> <p>21 constitutional. And this is what people want. If you</p> <p>22 look at the polls, this is what people want.</p> <p>23 Now, knowing all the type of voter fraud</p> <p>24 that I encounter back home, I realize, and I have</p> <p>25 publicly stated, that this was simply a good start. But</p>	<p style="text-align: center;">135</p> <p>1 prior to when you voted on the bill, how many people</p> <p>2 didn't have this necessary ID, would you have wanted to</p> <p>3 know then? Would that have mattered?</p> <p>4 A. The arguments were made, and it's always</p> <p>5 important to have information available to you, as much</p> <p>6 as you can provide. But I still think the overwhelming</p> <p>7 benefit, where I live, at least, is important, because</p> <p>8 at the moment, you can literally buy an election. And</p> <p>9 what it does is, it produces officials who are part of a</p> <p>10 corrupt process, and they reflect that process.</p> <p>11 And so you will have -- there are many</p> <p>12 people serving in office who ought to be in jail today</p> <p>13 where I live. But there's very little accountability</p> <p>14 except through the federal system, and they can't be</p> <p>15 watching us all of the time. This corruption is a tax</p> <p>16 on the very poor people I represent.</p> <p>17 Q. But isn't taking away the rights of the very</p> <p>18 poorest people who don't have the ID also a tax on them?</p> <p>19 A. Well, I don't think -- you know, in order to</p> <p>20 get those of us -- those of us, those in my community</p> <p>21 who are on government assistance, they have to have ID</p> <p>22 in order to get that assistance. I just don't see it.</p> <p>23 If they need the identification, they need to -- they</p> <p>24 need to get it if they don't already have it.</p> <p>25 Now, in future legislative sessions, can</p>
<p style="text-align: center;">134</p> <p>1 the injection of confidence that somebody is actually</p> <p>2 doing something matters. Now, all that I say to you</p> <p>3 is: Make your case and let the court decide.</p> <p>4 Q. My question for you is, as a legislator --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- doesn't that possibility of</p> <p>7 disenfranchisement concern you when you decide what</p> <p>8 symbol to use?</p> <p>9 A. Okay. Look. When I go to an airport, I used</p> <p>10 to love it, when I'd go to Southwest Airlines here in</p> <p>11 Austin, I could be there 30 seconds of when they closed</p> <p>12 the gate, and they'd let me in, and we'd take off. And</p> <p>13 it was wonderful. You know, now, they don't let me do</p> <p>14 that. Now I've got to go through screening and all</p> <p>15 that, and now I have to have an ID, and, you know, a</p> <p>16 pat-downs or whatever. It's an inconvenience, but it is</p> <p>17 a minor inconvenience for the value that's achieved.</p> <p>18 Now, like I said, if you can prove that</p> <p>19 this is a substantial inconvenience and people are not</p> <p>20 voting in large numbers, make your case. But I think</p> <p>21 that this is something that people want and that is not</p> <p>22 -- is not burdensome in comparison to our daily lives</p> <p>23 where we have to use an ID card for everything else.</p> <p>24 Q. If the Department of Elections had known prior</p> <p>25 to your -- if the Department of Elections had known,</p>	<p style="text-align: center;">136</p> <p>1 the -- can the identification -- identifications</p> <p>2 expand? Can they have other locations available that</p> <p>3 are more proximate? Those are questions of policy or</p> <p>4 law, and they'll have to be made in the future. I still</p> <p>5 think the value of having this passed has more value, at</p> <p>6 least to where I live, than any detriment.</p> <p>7 Q. Even if it's a purely symbolic value?</p> <p>8 A. It has value even if it is symbolic.</p> <p>9 Q. And would you say that flying is a fundamental</p> <p>10 right? The ability to get on an airplane?</p> <p>11 A. Hmm. Is that fundamental right?</p> <p>12 Q. (Nods head yes.)</p> <p>13 A. No, I don't think it's a fundamental right.</p> <p>14 Q. Is voting a fundamental right?</p> <p>15 A. Yeah, I would say it is.</p> <p>16 Q. And so would you say that balancing voting</p> <p>17 against symbolism is a trickier proposition than</p> <p>18 balancing flying against symbolism?</p> <p>19 A. That's the argument you're going to have to</p> <p>20 make.</p> <p>21 Q. I'm asking you a question.</p> <p>22 A. Oh.</p> <p>23 Q. Would you agree?</p> <p>24 A. Taking all things into consideration, I still</p> <p>25 think the law has more value than it does harm.</p>

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1 MR. FREEMAN: I'm going to object that
 2 that's not responsive and ask you to answer my
 3 question.
 4 A. Ask it again.
 5 Q. Do you think that it is more -- do you think
 6 that it is a more difficult proposition to balance
 7 voting against symbolism than to balance flying against
 8 symbolism and a more dangerous proposition?
 9 A. Is it more difficult?
 10 Q. Is it -- is it the same thing?
 11 A. Oh.
 12 Q. Is it equivalent?
 13 A. Well, okay. Yeah, it depends on your
 14 perspective. If you want to say that one is a right and
 15 the other is not a right, I guess those are different
 16 things.
 17 Q. Are you aware of how many convictions in total
 18 have been obtained by the Attorney General of Texas for
 19 in-person voter impersonation in the last 20 years?
 20 A. No. I would assume -- well, okay. It's not my
 21 job to assume. No.
 22 Q. Okay. Are you aware of whether Attorney
 23 General Abbott has dedicated substantial resources to
 24 investigate in-person voter impersonation?
 25 A. I know that he cares deeply about the issue,

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1 because I have spoken -- you know, many of my
 2 constituents. Just the other day, just last week, I
 3 turned in 88 or 81 complaints to his office on voter
 4 fraud, and I know his office takes an interest in the
 5 question.

6 Q. Would you agree that mail-in ballots are a
 7 greater source of fraud or election abuses than
 8 in-person voter impersonation?

9 MR. HUGHES: Asked and answered.

10 Q. (By Mr. Freeman) You can answer.

11 A. Yeah. There are other abuses that are greater.

12 Q. In fact, isn't the case that you told the
 13 McAllen Monitor that there is, in fact, voter
 14 corruption, but most of it appears in mail-in, in mail
 15 ballot voting, and some people think voter ID is going
 16 to solve these things, but it doesn't deal with the
 17 problem?

18 A. Right.

19 Q. Are you aware of any incidents of noncitizen
 20 voting that have occurred in your district?

21 A. That is not -- okay. In my experience and what
 22 I've perceived, that is not a large problem. Now, that
 23 doesn't mean it doesn't exist, okay? Where I live, many
 24 people don't even know if they're Americans or not.

25 My wife -- I always a pick on her and joke

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1 with her. We didn't know if she was an American or not,
 2 because half of her brothers are Mexicans, and her
 3 parents told her that she was an American. And so I
 4 said, "Well, how do you know you're an American? How do
 5 you prove you're an American?" Well, she was born
 6 through midwife, so we had to get documentation, and it
 7 was contested by the federal government.
 8 On the border, these are real things. So
 9 I can see somebody voting who thinks they're an
 10 American, but, in fact, they're not. I mean, inside
 11 themselves, they think like an American, but they
 12 legally are not American. So it's possible. But you
 13 don't see mass floods of people coming across the bridge
 14 to vote. Now, is it possible? Yeah. Now, I've heard,
 15 in the Delta area, that some of the people may have to
 16 go in and cast votes are noncitizens. But I will tell
 17 you, that is not a significant part of voter fraud.
 18 Q. Okay.
 19 A. These are Americans committing voter fraud.
 20 Q. Are you aware of any investigations of the
 21 issue in your area?
 22 A. No. You're not going to find that occurring.
 23 One, the federal level has more important things to deal
 24 with, the cartels and smuggling and murder and
 25 kidnapping. And on the state level, I think you'll find

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1 this across the board, that the DAs are not going to get
 2 involved. They think it's too hard to prosecute or it's
 3 inconvenient for them, politically speaking.

4 Q. Are you aware of any public statements made by
 5 advocates of photographic voter ID laws that photo voter
 6 ID will deter illegal immigrants from voting?

7 A. Yeah, I've had people say that to me, and I've
 8 responded in public saying that we have a hard enough
 9 time getting Americans to vote, let alone Mexicans.

10 That -- you know, look, people will speak
 11 their fears or speak their -- but the reality on the
 12 ground, because I live there and I live in probably one
 13 of the areas with the highest level of this voter fraud,
 14 we don't have Mexicans coming over. If they do, it's a
 15 mistake that was made. They were corralled in an old
 16 folks' home, they were brought in, "Are you an
 17 American?" "Yeah, I'm an American. Look here. I live
 18 here. I live here. I'm an American." In fact, they
 19 never got their citizenship papers, and they're 90 years
 20 old and they don't know any better. That's what
 21 happens.

22 Q. Yeah. Is it necessary to swear under oath that
 23 you're a U.S. citizen to register to vote?

24 A. Huh. I've never looked at the documentation,
 25 but I don't know if it's there or not. It is there?

<p style="text-align: center;">141</p> <p>1 Q. Do you recall on a voter registration card -- 2 A. No. 3 Q. -- if there's a box you have to check? 4 A. No. I'm curious. Does it say that? 5 Q. It's my role not to testify. 6 A. (Laughing.) 7 Q. Can I ask you: What ethnic or language 8 minority group makes up the majority of noncitizens in 9 Texas? 10 A. Oh, that's Mexican American. I'm sorry. 11 Mexicans, Mexican American. 12 Q. Okay. Why would people who advocated in favor 13 of this law in public, like David Temple, who is an 14 election judge from, I don't recall exactly where, 15 connect voter ID to undocumented immigrants, or as 16 they're going to say, illegal aliens from voting? 17 MR. HUGHES: Objection. That calls for 18 speculation and the reading of somebody else's mind and 19 is a totally improper question.</p> <p>20 Q. (By Mr. Freeman) To the best of your 21 understanding of the political process, what role would 22 it have for an individual to advocate publicly in favor 23 of the bill based on connections to stopping illegal 24 aliens from voting?</p> <p>25 MR. HUGHES: The same objection. You can</p>	<p style="text-align: center;">143</p> <p>1 intent, but in the intent of the legislature as a whole, 2 the purpose of the bill, given this advocacy, do you 3 believe that any part, the purpose of the bill was to 4 prevent illegal aliens from voting? 5 MR. HUGHES: Keep if mind my prior 6 instruction to you, please. 7 A. I have never -- I never heard, except through 8 the testimony of one witness who came before us 9 representing some advocacy group, I never heard that 10 stated amongst legislators. We simply wanted to pass 11 the bill. It's a long standing question, or it was. 12 MR. FREEMAN: Mr. Hughes, I'll ask if, if 13 I ask a general purpose question, that you not interrupt 14 my examination of the witness with an instruction that 15 goes beyond a general purpose question and restricts the 16 witness from answering my question immediately. 17 MR. HUGHES: I'm going to keep making my 18 objections. 19 MR. FREEMAN: And I'm going to keep making 20 my record that your objections are entirely unwarranted. 21 THE WITNESS: We must be at the good part. 22 Q. (By Mr. Freeman) This document has been 23 previously marked as Exhibit 7. 24 Mr. Pena, have you seen this website 25 before?</p>
<p style="text-align: center;">142</p> <p>1 answer. This is not a privilege objection. 2 A. You know, politics is polemic. Sometimes it's 3 easy to throw out language that helps -- that brings 4 people together by having a world view that's similar, 5 and you espouse that, so you're a member of the club 6 because you espouse the same world view that other 7 people have, because they have fears that there are 8 changes occurring in Texas. And the reality is, as I've 9 stated before, we don't have a lot of Mexican nationals 10 coming over intentionally to vote.</p> <p>11 Q. (By Mr. Freeman) But was one of the purposes of 12 SB 14 to prevent illegal aliens from voting?</p> <p>13 MR. HUGHES: Again, I want to give my 14 legislative privilege instruction not to reveal your 15 mental impressions, opinions about the legislation. And 16 as to purpose, you can testify about the general 17 purpose, but not about the individual intents of 18 specific legislators.</p> <p>19 A. My intent was, because of the people who wanted 20 it and because it was presented to me, and I have to 21 answer the question, because I believe it injects 22 confidence in the people. I see it as the first step, 23 not as a step to solve the whole lot. It's a first 24 step.</p> <p>25 Q. (By Mr. Freeman) And beyond your individual</p>	<p style="text-align: center;">144</p> <p>1 A. Have I seen her website? 2 Q. Uh-huh. 3 A. Not that I recall. 4 Q. And who is -- who is "her"?</p> <p>5 A. Patricia Harless is a member, and I think in 6 relation to this question before us, she's the author of 7 the bill.</p> <p>8 Q. Is she the author of the bill or the sponsor of 9 the bill?</p> <p>10 A. I'm sorry. Sponsor of the bill. 11 Q. Thank you. Just helping you out. 12 A. I forgot that it came out of the Senate. 13 Q. And do you see where, on her list of important 14 issues, she lists require Texas photo ID to vote?</p> <p>15 A. Yes, I see that. 16 Q. And do you see what category it's under? 17 A. Immigration reform.</p> <p>18 Q. What is the connection between photographic ID 19 and immigration reform?</p> <p>20 A. I assume -- well, I'm just having to assume 21 here, but I believe that many people make the false 22 impression that there's a connection that we have 23 illegal aliens voting, and it's not been my experience.</p> <p>24 Q. Okay. But in terms of the general purpose of 25 the legislature, do you believe that -- do you continue</p>

<p style="text-align: center;">145</p> <p>1 to believe that not part of the purpose of SB 14 is to 2 prevent illegal aliens from voting?</p> <p>3 MR. HUGHES: Keeping in mind my prior 4 caution.</p> <p>5 A. I assume, and you know -- well, I don't know. 6 Yeah, I'm guessing. Nobody communicated that to me 7 except for that one witness that we had testify, who I 8 corrected on the record. I said, "It's not the case. 9 We don't have -- we don't have Mexicans coming across 10 the border for that purpose. They come over to work."</p> <p>Q. And are you aware of whether staff of the Lieutenant Governor have continued to state, during depositions in this case, that the purpose of the bill was to prevent noncitizens from voting?</p> <p>A. No, I'm not aware of that.</p> <p>Q. If they had stated that, and I'll represent to you as a member of the court that they have, would that change your answer?</p> <p>A. You mean, if what you say is true --</p> <p>Q. Yeah.</p> <p>A. -- did he say it?</p> <p>Q. I can represent to you, as a member of the court, that staff of the Lieutenant Governor and multiple staff members of the Lieutenant Governor stated during their depositions in this case, that the purpose</p>	<p style="text-align: center;">147</p> <p>1 in this country legally from voting. I mean, not to say 2 that that's a large problem. But in my experience, it 3 does have that purpose -- effect, I should say.</p> <p>Q. Are there any other problems that you can think of with the current system of establishing voters' identities at the polls?</p> <p>MR. HUGHES: Objection, vague.</p> <p>A. I don't understand. Say it again.</p> <p>Q. (By Mr. Freeman) So we have discussed the current system of establishing the voters' identity at that polls. You have to show your election, your registration certificate, or if you don't have that, you have to show an ID. We talked about that before, right?</p> <p>A. Right?</p> <p>Q. Are there any other problems, other than what we've discussed previously?</p> <p>A. Not that I can think of.</p> <p>Q. Okay. Now, we previously talked about the lack of reported incidents of voter impersonation, reported incidents of voter impersonation in Hildago County; that the fraud or irregularities or problems that they're having are not about impersonation, right?</p> <p>A. Well, okay. What I will say is that I know of none. That doesn't mean that they don't happen.</p> <p>Q. Okay. Just like you don't know about a bunch</p>
<p style="text-align: center;">146</p> <p>of SB 14 is to prevent noncitizens from voting.</p> <p>A. Okay. If you say so. Okay.</p> <p>Q. Does the change your --</p> <p>A. Now, I will say that it does prevent noncitizens from voting, okay?</p> <p>Q. How does it prevent noncitizens from voting?</p> <p>A. Well, in order to get an ID, you've got -- you've got to show that you're from this country.</p> <p>Q. And you are certain that in order to have a Texas driver's license -- if you're a green card holder, waiting for citizenship --</p> <p>A. If you're here legally, you can get a driver's license.</p> <p>Q. Okay. So if someone is legal, if someone is documented?</p> <p>A. Right. But illegal immigrants are not -- or illegal aliens are not going to get it.</p> <p>Q. Sure. But noncitizens can have drivers' licenses, correct?</p> <p>A. Oh, okay. Yes, they can.</p> <p>Q. So SB 14 won't prevent them from voting, right?</p> <p>A. No, not those citizens, but -- I'm sorry, not those people.</p> <p>Q. Yes.</p> <p>A. But it does have the purpose of keeping people</p>	<p style="text-align: center;">148</p> <p>of illegal aliens coming over from Mexico and voting?</p> <p>A. Right. It's not been something that I've observed or I hear a lot of talk of, because I'll be quite honest, if that was to occur, the other camp would say, "Well, we need to do the same thing." And I don't hear that, other than what I described, okay? There was discussion, as I mentioned that, some illegal aliens from the Delta area were taking those slots where people hadn't voted. But I can't confirm that, because I have no personal knowledge. But people have said that to me.</p> <p>Q. But so isn't the fear about in-person impersonation just as unreasonable as the fear about undocumented immigrants voting?</p> <p>A. I will say that it's reasonable, because a large of number of people have it. Do you understand what I mean by that? Now, there are a lot of Texans who believe that, and -- but they don't have the primary experience. They don't have the experience I have being proximate to the border to realize that's not a big problem. But this is -- fears are real, and if people want to address their fears through legislation, that's perfectly legitimate.</p> <p>Q. But is it legitimate to balance people's fears, that are not based on reality, against people's rights that are?</p>

<p style="text-align: center;">153</p> <p>1 invoke it because there, apparently, is a larger 2 principle here, and that is, that by my failing to 3 invoke it could be waived, so I invoke the privilege.</p> <p>4 Q. (By Mr. Freeman) I mean, you've spoken about 5 these issues in public, right?</p> <p>6 A. If you could remind me.</p> <p>7 Q. You have spoken about voter ID in public, 8 right?</p> <p>9 A. I have.</p> <p>10 Q. So, you know, that didn't waive your privilege, 11 right?</p> <p>12 A. What's the question?</p> <p>13 Q. So I'm trying to --</p> <p>14 MR. FREEMAN: You know what, why don't we 15 go off the record for half a second? (Discussion off the record from 1:51 17 1:53 p.m.)</p> <p>18 MR. FREEMAN: Back on the record.</p> <p>19 Q. (By Mr. Freeman) Representative Pena, are you 20 familiar with any studies that have concluded that voter 21 turnout among minority communities goes down in the 22 presence of a voter ID law?</p> <p>23 A. Am I presently aware?</p> <p>24 Q. Uh-huh.</p> <p>25 A. No. I mean, I've heard -- in reading articles,</p>	<p style="text-align: center;">155</p> <p>1 says.</p> <p>2 Q. Okay.</p> <p>3 MR. FREEMAN: If we could have this marked 4 as U.S. 373. (Exhibit 373 marked for identification.)</p> <p>6 Q. (By Mr. Freeman) And this is a direct quote 7 from you. It's --</p> <p>8 A. Steve miller.</p> <p>9 Q. It's "He told Texas Monthly," beginning one, 10 two, three, four, five -- the sixth paragraph.</p> <p>11 MR. HUGHES: Is there a question?</p> <p>12 Q. (By Mr. Freeman) Do you recall telling Texas 13 Monthly, "If it makes us feel good to pass voter ID, 14 okay, but it's not the solution to the voter fraud 15 that's out there"?</p> <p>16 A. Yeah, I said that, and that's consistent with 17 what I have said before, that is not the dominant form 18 of voter fraud.</p> <p>19 Q. Okay. And so was the most common statement 20 that you heard concerning this bill that its purpose was 21 to combat voter fraud?</p> <p>22 MR. HUGHES: Again, I want to remind you 23 of the legislative privilege issues here.</p> <p>24 Q. (By Mr. Freeman) In a public forum.</p> <p>25 A. Okay. In that you said it that way. Yeah,</p>
<p style="text-align: center;">154</p> <p>1 people may state that, but I don't recall specifically. 2 I don't recall -- I have a vague notion that the 3 argument's been made.</p> <p>4 Q. Okay. Would it be fair to say that there's 5 evidence on both sides?</p> <p>6 A. Yeah. There's always evidence on both sides.</p> <p>7 Q. Representative Pena, do you recall telling the 8 McAllen Monitor that although you weren't opposed to 9 SB 14, you did not think it would address voter fraud?</p> <p>10 A. I don't recall. Let me just say that that 11 sounds like something I'd say, but I don't recall if 12 that specific language is correct.</p> <p>13 MR. FREEMAN: This can be marked U.S. 372. (Exhibit 372 marked for identification.)</p> <p>15 A. Can you tell me which paragraph?</p> <p>16 Q. (By Mr. Freeman) It's in the last paragraph.</p> <p>17 A. The last paragraph?</p> <p>18 Q. The last paragraph of the first page.</p> <p>19 A. Hmm. No. You know, I've always told you the 20 way I see it, and I think what I've said is, it's a good 21 first step. That appears to be the -- Mr. Janes's 22 language. My position is always the same, that it -- 23 you know, in person -- in-person voter fraud, voter 24 impersonation is not the most dominant form of voter 25 fraud. But to answer your question, this is what he</p>	<p style="text-align: center;">156</p> <p>1 that's it.</p> <p>2 Q. But if it isn't going to really solve the voter 3 ID fraud that's out there, there must be some other 4 purpose, right?</p> <p>5 A. I can't say. I just say, you know, look, we 6 all got to start somewhere. And I presented many other 7 bills that addressed many of other problems, and some of 8 them were passed. Some of them were passed by my 9 colleagues. So, we addressed the questions that were in 10 front of us. This one, for some reason, has taken a 11 high profile position.</p> <p>12 Q. Was the purpose of SB 14, in any part, to 13 decrease the number of Hispanic voters who could 14 effectively cast a ballot?</p> <p>15 A. That was not my intention.</p> <p>16 Q. I am not asking about your intention, which I 17 believe is privileged.</p> <p>18 MR. HUGHES: Yes, I'll remind you of the 19 same.</p> <p>20 A. Yeah. I have to say, I saw no evidence of 21 that, okay?</p> <p>22 Q. (By Mr. Freeman) Was the purpose of SB 14, in 23 any part, to discriminate in any way against any group 24 of minority voters?</p> <p>25 MR. HUGHES: The same privilege reminder.</p>

<p style="text-align: center;">157</p> <p>1 A. You know, saw no -- I heard no language that 2 would cause me to infer that. I saw no action that 3 caused me to infer that.</p> <p>4 Q. (By Mr. Freeman) Do you believe in limited 5 government?</p> <p>6 A. Hmm. You're asking me a deep, philosophical 7 question there. Government has its purpose oh, okay? 8 And let us start from the beginning. To defend the 9 country in times of war, and I guess for that same 10 purpose, to develop an interstate transportation system.</p> <p>11 Q. We don't need to go that deep.</p> <p>12 A. Okay.</p> <p>13 Q. Do you believe in government -- do you believe 14 that it is good policy --</p> <p>15 A. Oh, I see.</p> <p>16 Q. -- to have a government that passes legislation 17 that doesn't solve an actual problem?</p> <p>18 A. Oh, I know where you're going with this 19 question. What I believe is, in answering the questions 20 that are presented to me, okay, and so this question was 21 presented to me, and I had to provide a -- I had to make 22 a decision, and I made my decision.</p> <p>23 MR. FREEMAN: I'm going to object to that 24 as nonresponsive. But we'll move on.</p> <p>25 Q. (By Mr. Freeman) Are you familiar with the</p>	<p style="text-align: center;">159</p> <p>1 election laws?</p> <p>2 A. I don't recall. I think it's been mentioned 3 before by somebody, but I don't recall.</p> <p>4 Q. Let's refresh your recollection.</p> <p>5 MR. FREEMAN: If we can mark this as U.S.</p> <p>6 374.</p> <p>7 (Exhibit 374 marked for identification.)</p> <p>8 Q. (By Mr. Freeman) Do you see on Page 4, where it 9 says, "Two of them, Representatives Aaron Pena and Larry 10 W. Taylor, sat on the ALEC task force that approved 11 Voter ID model legislation"?</p> <p>12 A. Oh, yes.</p> <p>13 Q. Do you believe that to be the case?</p> <p>14 A. I saw this article, and I was called by a 15 reporter. I don't know if it's the same one. Do I 16 believe? I assume he says I am, that I am.</p> <p>17 Q. Do you remember sitting on that task force?</p> <p>18 A. No.</p> <p>19 Q. Do you remember approving a model voter ID 20 bill?</p> <p>21 A. No.</p> <p>22 Q. Do you remember the contours of the model ID 23 bill that was released by ALEC?</p> <p>24 A. No.</p> <p>25 MR. FREEMAN: I'll have this marked as</p>
<p style="text-align: center;">158</p> <p>1 Federal Help America Vote Act?</p> <p>2 A. Yeah. HAVA.</p> <p>3 Q. Yeah. Are you familiar with the voter 4 identification requirements for first-time voters under 5 HAVA who have registered to vote via a mail-in voter 6 registration form?</p> <p>7 A. Remind me, because I don't recall them.</p> <p>8 Q. Do you recall what ID are sufficient under 9 HAVA?</p> <p>10 A. No, I don't recall.</p> <p>11 Q. Do you recall whether a photo ID is necessary?</p> <p>12 A. I don't recall.</p> <p>13 Q. Are you a member of the American Legislative 14 Exchange Council?</p> <p>15 A. Hmm. I don't know if I am. I have been in the 16 past.</p> <p>17 Q. Okay. And in the past, what was your 18 participation in the American Legislative Exchange 19 Council?</p> <p>20 A. Hmm. I attended their convention. Conference, 21 I believe, is the phrase used today. I received 22 occasional e-mails. I don't know if they're the ones 23 who put out a magazine, but they certainly put out 24 information.</p> <p>25 Q. Did you ever sit on a task force related to</p>	<p style="text-align: center;">160</p> <p>1 U.S. 375.</p> <p>2 (Exhibit 375 marked for identification.)</p> <p>3 Q. (By Mr. Freeman) Under this bill -- does this 4 look at all familiar to you?</p> <p>5 A. No.</p> <p>6 Q. Under this model bill, what are the forms of 7 proofs of identity that are acceptable?</p> <p>8 A. Okay. Under Exhibit 375, Section 1.A1, it 9 shows the name of the person to whom the document was 10 issued. 2, shows a photograph of the person to whom the 11 document was issued. 3, contains an expiration date and 12 is not expired. 4, is issued by the United States or 13 the State of Arkansas.</p> <p>14 Q. So this is an Arkansas modeled bill, but --</p> <p>15 A. Okay.</p> <p>16 Q. -- it's by the United States or the state; is 17 that correct?</p> <p>18 A. Yes.</p> <p>19 Q. And do you see under Section 2 C, small 2, is 20 there an exception for indigent voters who may not have 21 an ID?</p> <p>22 A. Yes.</p> <p>23 Q. Are you familiar at all with the Indiana model 24 legislation that you discussed before?</p> <p>25 A. No, not specifically.</p>

<p style="text-align: center;">161</p> <p>1 Q. Are you familiar with the forms of ID that are 2 permissible under the Indiana model legislation? 3 A. No. 4 Q. But you said before that part of the reason 5 that you thought that the Texas bill was legal was that 6 of it was modeled after Indiana, right? 7 A. Yes. 8 Q. But you didn't know if they were actually the 9 same, did you? 10 A. I was -- I was told that they were similar. 11 Q. Okay. This has previously been marked as U.S. 12 Exhibit 60. (Handed to witness.) And this is just one 13 page of Exhibit 60, but it's relevant page. 14 If you could take a quick look at this. 15 A. (Viewing documents.) Okay. 16 Q. Isn't it the case that Indiana allows the use 17 of any state or federal ID with a named photo and 18 expiration date that is unexpired or expired after the 19 last general election -- 20 A. That's what it appears to say. 21 Q. And so that's pretty much the same as the ALEC 22 model legislation, right? 23 MR. HUGHES: Are you making a 24 representation that Exhibit -- 25 MR. FREEMAN: I'm asking if --</p>	<p style="text-align: center;">163</p> <p>1 Q. (By Mr. Freeman) Can you take a quick look at 2 the forms of ID that are acceptable under Section 3 21-2-417 of Georgia code for acceptable voter ID in 4 Georgia? 5 A. Okay. 6 Q. Does it allow the use of an employee ID? 7 A. Yes. 8 Q. Does it allow the use of a tribal ID? 9 A. Yes. 10 Q. Does the Georgia law establish voters' 11 identities? Identities? 12 MR. HUGHES: Based on? 13 Q. (By Mr. Freeman) Based on the use of these 14 documents? 15 A. Yes. 16 Q. Are you aware of a photographic voter 17 identification bill that was introduced in the 81st 18 Texas Legislature in 2009? 19 A. Yes. 20 Q. Was a single bill subject to serious 21 consideration? 22 A. Yes. 23 Q. Who introduced that bill? 24 A. I don't recall. 25 Q. Do you recall why they said they introduced it?</p>
<p style="text-align: center;">162</p> <p>1 MR. HUGHES: -- 375 is the ALEC model? 2 MR. FREEMAN: I am. 3 MR. HUGHES: Because I don't think he ever 4 testified to that. 5 Q. (By Mr. Freeman) Well, it's relatively similar. 6 A. I don't see the -- yeah, relatively similar, 7 yeah. 8 Q. What are the differences? 9 A. That indigent language I don't see here. 10 Q. I'm just asking about the form of ID there. 11 A. Oh. 12 Q. I can represent to you that there's more of the 13 Indiana bill. 14 A. Oh, okay. Yeah, that seems similar. 15 Q. Okay. And does the Indiana law establish an 16 individual's identity with those documents? 17 A. Yes. 18 Q. Okay. Are you familiar with the forms of ID 19 that were permissible under the Georgia photo ID law? 20 A. No. 21 MR. FREEMAN: This has previously been 22 marked as Exhibit 6. U.S. Exhibit 6. 23 MR. HUGHES: This is 6? 24 A. No, I'm not familiar, and I've not that seen 25 this before.</p>	<p style="text-align: center;">164</p> <p>1 A. No. 2 Q. What was your involvement with that bill? 3 A. I voted or didn't vote. 4 Q. Did it pass through the Elections Committee? 5 A. I don't recall, but I assume so. 6 Q. Do you recall whether you voted against it in 7 the Elections Committee? 8 A. I probably voted against it. 9 Q. Do you recall the basic provisions of that 10 bill? 11 A. No. 12 Q. And this has previously been marked as U.S. 13 Exhibit 29. (Handing to witness.) 14 A. Okay. 15 Q. Have you seen this before? 16 A. I can assume that I did. 17 Q. And what forms of identification are allowable 18 under the bill under Section 6 of the bill, if that gets 19 you to the right place? Section 6 and Section 11. 20 A. Where? I'm sorry. It says 6301 -- okay. 21 Amended -- okay. 63.1001A. Do I got to go there? 22 Q. You do. 23 A. Driver's license. Personal ID card issued by 24 the Department of Public Safety that has not expired or 25 expired no earlier than two years before date of the</p>

<p style="text-align: center;">165</p> <p>1 presentation. A United States military ID. A United 2 States citizen's certificate. Passport. Concealed 3 handgun license. A valid ID that contains a person's 4 photograph issued by an agency, institution -- the 5 voter's -- a voter registration certificate.</p> <p>6 Q. And just to be clear, after that -- that first 7 set, one of those is acceptable, in the second set, you 8 need two, correct, under Section 6B-2 back on Page 3?</p> <p>9 A. If you say so. Okay.</p> <p>10 Q. Maybe I'll lead a little bit, and this might 11 get easier.</p> <p>12 A. Okay.</p> <p>13 Q. Isn't it the case that under SB 362, which is 14 Exhibit 29, and the bill that was introduced and 15 considered in 2009, that a voter could offer either, 16 one, driver's license, personal identification card, 17 military identification card, citizenship certificate 18 with a photographic, a passport, license to carry, or 19 any other state or federal ID with a photograph; or two 20 of either a voter registration certificate, current 21 utility bill, bank statement, government check, 22 paycheck, other government document that shows the name 23 and address of the voter, any official mail from the 24 government, a certified birth certificate, United States 25 citizenship papers without a photograph, a marriage</p>	<p style="text-align: center;">167</p> <p>1 but like I said, most of the voter fraud is in other 2 channels of doing this sort of voter fraud. It's not -- 3 in-person impersonation is not as significant in my 4 experience.</p> <p>5 Q. Okay. Did you participate in the chubbing of 6 SB 362?</p> <p>7 A. I don't remember.</p> <p>8 Q. What is chubbing, for Mr. Hughes's benefit?</p> <p>9 A. Chubbing is a phrase that is used in Texas for 10 wasting time at the microphone to delay, for a variety 11 of purposes, for the sole purpose of delay.</p> <p>12 Q. And was chubbing what caused SB 362 to not pass 13 the Texas House?</p> <p>14 A. Yeah.</p> <p>15 Q. Do you recall whether or not you stood at the 16 microphone and participated in the chubbing?</p> <p>17 A. It's not likely that I did.</p> <p>18 Q. Okay. To be honest, I have no idea. I was 19 just asking.</p> <p>20 A. No, I'm not the sort that chubs.</p> <p>21 MR. HUGHES: If we're at a breaking point. 22 MR. FREEMAN: Want to take a break? 23 MR. HUGHES: Yeah. (Recess from 2:16 p.m. to 2:29 p.m.)</p>
<p style="text-align: center;">166</p> <p>1 license, a divorce decree, adoption records, name change 2 or sex change records, public benefits cards, veterans 3 benefits cards, Medicaid cards, Medicare cards, 4 temporary driving permits, pilot's licenses, library 5 cards, or hunting and fishing licenses?</p> <p>6 A. Yes.</p> <p>7 Q. How would this bill have solved any problem 8 related to in-person voter fraud in comparison to 9 current law?</p> <p>10 A. How would it solve it?</p> <p>11 Q. Yes.</p> <p>12 A. I don't understand. You mean --</p> <p>13 Q. What would SB --</p> <p>14 A. -- would it more effective? Less effective? Is 15 that what you mean?</p> <p>16 Q. Yes. What would SB 362 have done, in 17 comparison to current law, to fix voter fraud?</p> <p>18 A. I think we had this discussion before.</p> <p>19 Q. Well, this is a different bill from SB 14.</p> <p>20 This allows you to use different types of documents.</p> <p>21 A. Yeah. Yes.</p> <p>22 Q. And you don't think -- am I correct that you 23 don't think that it would solve any other real types of 24 fraud that happen in your district?</p> <p>25 A. It may stop a few instances that I'm aware of,</p>	<p style="text-align: center;">168</p> <p>1 MR. FREEMAN: Back on the record.</p> <p>2 Q. (By Mr. Freeman) Okay. Back on the record 3 after a break.</p> <p>4 During the committee debate on SB 362, the 5 exhibit in front of you there, Exhibit 29, do you recall 6 telling the McAllen Monitor that you found little to no 7 evidence of voter impersonation and complaining about a 8 lack of opportunity to cross-examine witnesses?</p> <p>9 A. I do remember something to that effect. The 10 lack of cross-examination had to do with a group of 11 witnesses that came up from the Valley.</p> <p>12 Q. Uh-huh.</p> <p>13 A. Uh-huh. And if I remember right, somebody was 14 going to say something, and said, "Well, I surely would 15 like examine them," but they were pulled away.</p> <p>16 Q. Did they submit affidavits instead?</p> <p>17 A. I don't recall.</p> <p>18 Q. Okay.</p> <p>19 A. They might have.</p> <p>20 Q. Do you recall telling the Fort Worth Star 21 Telegram that voter ID was bad for Texas, plain and 22 simple?</p> <p>23 A. Did I say that?</p> <p>24 Q. Do you recall saying that?</p> <p>25 A. If you say I said it, then, yes, okay.</p>

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1 Q. Well, let's see if we can refresh your
 2 recollection.
 3 MR. FREEMAN: If we can mark this as U.S.
 4 376.
 5 (Exhibit 376 marked for identification.)
 6 Q. (By Mr. Freeman) This is on Page 2 in the
 7 middle of the page.
 8 A. I don't see it. Oh, Page 2?
 9 Q. Yes.
 10 A. You did say that.
 11 Q. I did.
 12 A. If that's what it says I said.
 13 Q. Did you believe in 2009 that voter ID was bad
 14 for Texas, plain and simple?
 15 A. I don't remember. I'm sorry.
 16 Q. You have no recollection why you opposed a
 17 major bill in the Elections Committee of which you were
 18 the vice chairman?
 19 MR. HUGHES: And I'll remind you of your
 20 legislative privilege concerning, and the question has
 21 been asked and answered.
 22 A. I am not sure the Elections Committee was a
 23 major committee. No, I don't recall.
 24 Q. (By Mr. Freeman) Okay.
 25 A. But I know Dave Montgomery. If he says I said

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1 that, then I may have said that.
 2 Q. It's as good as you can get from Dave
 3 Montgomery?
 4 A. He's a good guy. He's not a somebody who makes
 5 stuff up.
 6 Q. I'm sure he is.
 7 A. Huh?
 8 Q. I'm sure he is. No sarcasm. That's not going
 9 to come across on the record. I'm saying that honestly,
 10 Mr. Montgomery.
 11 Did SB 14 resolve any problems you may
 12 have had with -- you may have publicly commented on with
 13 regard to SB 362?
 14 A. Not that I recall.
 15 Q. Do you recall the basic provisions of SB 362?
 16 A. Other than what you described to me. You need
 17 have a photo ID to vote.
 18 Q. Do you recall the forms of identification that
 19 are allowable under SB 14?
 20 A. If I remember right, a passport and driver's
 21 license, hunting, concealed carry, the so-called free
 22 voter identification card. Did I miss one?
 23 Q. Military ID?
 24 A. Military ID.
 25 Q. And a U.S. citizenship certificate with a

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1 photo?
 2 A. Oh, yeah. You introduced that to me today.
 3 Q. It's in the bill, though, correct?
 4 A. Okay.
 5 Q. All right. Would you like to have a copy of
 6 the bill in front of you?
 7 A. No.
 8 Q. Okay. Now, we previously discussed the list of
 9 ID that can be used under the -- what I represented to
 10 you was the ALEC model legislation. Is this a narrower
 11 list than the ALEC model legislation?
 12 A. Yes.
 13 Q. Is it a narrower list than Indiana?
 14 A. Yes.
 15 Q. Is it a narrower list than Georgia?
 16 A. Yes.
 17 Q. Didn't you earlier testify that each of those
 18 bills would establish identity?
 19 A. That's what the bill said, each of those bills.
 20 Q. Okay. Is it your belief --
 21 A. The legislative language said these are
 22 identification, and then listed them. So that's what
 23 the bill said.
 24 Q. Okay. Is it your belief that the IDs in the
 25 Georgia bill are sufficient to establish a voter's

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1 identity?
 2 A. Okay. That's the policy question that Texas
 3 was given and was made through the various processes we
 4 go through.
 5 Q. Is it your belief that the IDs in the Georgia
 6 bill establish a person's identity when they show up to
 7 vote?
 8 A. Okay. I will say that I have reservations
 9 about employee identifications, employee or agencies of
 10 the government, as we described, I would like there to
 11 be some security in the identification. So if your
 12 question is asking me: Are those sufficient
 13 identifications, that's a policy question Texas was
 14 confronted with. I personally don't find that internal
 15 office IDs, college IDs are sufficient. I like there to
 16 be some safeguards.
 17 Q. And your basis for saying that they're not
 18 sufficient?
 19 A. Is a judgment that I make.
 20 Q. And as the security features?
 21 A. Yeah. Yes. I'm sorry. I said "Yeah." I read
 22 -- okay. Yes.
 23 Q. But you said previously that -- sorry, strike
 24 that.
 25 Is Indiana as racially diverse as Texas?

<p style="text-align: center;">173</p> <p>1 A. You know, I don't know. All I know about 2 Indiana is Abraham Lincoln's history there. 3 Q. That's Illinois, I believe. 4 A. No, he started Indiana, and then he moved 5 across. But I don't know much more. I mean, I've to be 6 Illinois. I'm sorry. I know it's humorous, but Texas 7 has three major ethnic groups. Three major -- well, 8 okay. Hispanic is not a -- is an ethic group, not a 9 racial group. We have whites. We have African 10 Americans, and we have Hispanics. Those are the major 11 groups here. Now, I don't know if it's more diverse or 12 not -- 13 Q. You don't know? 14 A. -- to answer you question. I don't know. 15 Q. Are you familiar with the Supreme Court's 16 decision of <i>Crawford v. Marion County Board of Elections</i>?</p> <p>17 A. Refresh my memory. I don't -- 18 Q. The Supreme Court decision concerning voter ID? 19 A. No. 20 Q. Is it possible that the factual circumstances 21 in Texas are different from the factual circumstances in 22 Indiana, with regard to race and poverty, access to IDs, 23 et cetera? 24 A. I'm sure there are factual distinctions that</p>	<p style="text-align: center;">175</p> <p>1 A. No. 2 Q. And hasn't he signed off on objections to voter 3 ID bills in only Texas and South Carolina? 4 A. I don't know that. 5 Q. Would you describe Texas as being a state that 6 is in contention in the 2012 election? 7 A. No, but it has a heavy Hispanic population. 8 Okay. Look, you're asking -- okay. I still maintain 9 that it was it was a political -- a blatantly political 10 decision. 11 Q. And I'm just curious -- 12 A. I don't know why he came to Austin to give that 13 speech. He seems to be making a point of it. The 14 administration seems to be making a point of this, and I 15 think it's to create a wedge issue between Hispanics and 16 the conservative movement. 17 Q. Did you ever have any conversations concerning 18 aspects of SB 14 that were different from SB 362? 19 MR. HUGHES: And I want to, again, caution 20 you on the legislative privilege, and ask if we could 21 get the question rephrased to remove the obvious concern 22 here that you're asking about potential conversations 23 that are subject to the legislative privilege. 24 Q. (By Mr. Freeman) Did you ever have any 25 conversations concerning the substance of SB 14 prior --</p>
<p style="text-align: center;">174</p> <p>1 could be raised. 2 Q. Okay. Do you recall telling the McAllen 3 Monitor that the Attorney General's decision to deny 4 preclearance of SB 14 was blatantly political? 5 A. What? I'm sorry. Which Attorney General? 6 Q. The Attorney General of the United States. 7 A. Oh, yes. 8 Q. The defendant in this case. 9 A. Okay. Yes. I do recall that. I'm sorry. 10 It's because Attorney General Abbott and I have a very 11 close relationship, and I know him quite well, and I 12 know his wife, and it's just not like me to talk that 13 way about him. But as to Mr. Holder, yeah, that was 14 political. He -- he is -- okay. To answer the 15 question, yes, I remember. 16 Q. What was the basis for that statement? 17 A. He has made this issue a seemingly campaign 18 issue, where he goes around the country, and he seems to 19 be whipping up support for him. That's perfectly good 20 and fine. As an American citizen, he can do it. But 21 that being so close to the election, when the swing 22 states involved are places like Colorado and some of the 23 western states, where there's a high Hispanic 24 percentage, seems to me to be blatantly political. 25 Q. Is Eric Holder an elected official?</p>	<p style="text-align: center;">176</p> <p>1 specifically that bill, what would be in that bill? Is 2 that sufficiently broad? 3 A. "I don't recall" is the answer. 4 Q. You solved all our problems. Thank you. 5 What was the purpose of omitting student 6 IDs from SB 14? 7 A. I don't know what -- 8 MR. HUGHES: And again, I'll give you the 9 legislative privilege caution that you can talk about 10 the purpose of the bill as a whole, but not individual 11 legislative intent. On that basis, you can answer. 12 A. All right. I've stated -- I don't know what 13 other people were thinking, okay, and I am not the one 14 who omitted it. But I find that there are not enough 15 security, levels of security in student identification 16 cards. 17 Q. (By Mr. Freeman) How about tribal ID? 18 A. What about it? 19 Q. What was the purpose the omitting tribal ID? 20 A. I don't know. 21 MR. HUGHES: The same instruction. 22 A. I don't know. It was in my -- it wasn't my 23 choice to remove or not put that in there. 24 Q. (By Mr. Freeman) What does the term 25 "legislative emergency" mean within the Texas</p>

<p style="text-align: center;">177</p> <p>1 Q. Legislature?</p> <p>2 A. Oh, is this -- is this the Governor's call for</p> <p>3 a legislative emergency? Is that what you're talking</p> <p>4 about?</p> <p>5 Q. Uh-huh.</p> <p>6 A. It doesn't mean what it says, okay? It is a</p> <p>7 misnomer, in that what it means is that this a priority</p> <p>8 to him rather than an emergency, okay? So people always</p> <p>9 -- newspapers love to make a point of the fact that this</p> <p>10 language doesn't match with the purpose that it's</p> <p>11 there. It is not an emergency; it's simply a priority</p> <p>12 to the Governor.</p> <p>13 Q. Are there any constraints on what the Governor</p> <p>14 may declare to be a quote, unquote emergency?</p> <p>15 A. I guess political constraints.</p> <p>16 Q. But not substantive, not legal constraints?</p> <p>17 A. Not that I'm aware of.</p> <p>18 Q. Okay. Was photographic voter identification</p> <p>19 declared to be a legislative emergency?</p> <p>20 A. Yeah, I assume that that language, legislative</p> <p>21 emergency, must be the Constitution or somewhere,</p> <p>22 because it keeps being raised. Yes, it was -- it was</p> <p>23 declared an emergency.</p> <p>24 Q. Just to take a quick step back, you said that</p> <p>25 there are political constraints. What did you mean by</p>	<p style="text-align: center;">179</p> <p>1 them. Let me make my objections, but we can move on.</p> <p>2 MR. FREEMAN: You're going to obstruct --</p> <p>3 instruct? Sorry, that was a Freudian slip there.</p> <p>4 Let me try and make it a little broader,</p> <p>5 then, and avoid the instruction.</p> <p>6 Q. (By Mr. Freeman) Are you aware of any</p> <p>7 conversations concerning legislative emergencies that</p> <p>8 occurred in early 2011?</p> <p>9 MR. HUGHES: And again, I'm going to</p> <p>10 caution you on legislative privilege not to reveal</p> <p>11 legislatively-privileged conversations between</p> <p>12 legislators or between legislators and legislative staff</p> <p>13 or between legislators and members of the Governor's</p> <p>14 Office.</p> <p>15 A. I'm not.</p> <p>16 Q. (By Mr. Freeman) Are you aware of any documents</p> <p>17 relating to the subject of legislative emergencies that</p> <p>18 were circulated at the beginning of 2011 or any e-mail?</p> <p>19 MR. HUGHES: The same precaution.</p> <p>20 A. After the fact is publicly made --</p> <p>21 Q. (By Mr. Freeman) Yeah.</p> <p>22 A. -- we typically get a form on the Floor, and it</p> <p>23 says the Governor is hereby proclaimed whatever.</p> <p>24 Q. Okay. That's all?</p> <p>25 A. Sometimes they read it into the record on the</p>
<p style="text-align: center;">178</p> <p>1 that?</p> <p>2 A. Well, like I said, every time that there is --</p> <p>3 well, first of all, internally within his -- within his</p> <p>4 support, he shouldn't raise something that he doesn't</p> <p>5 have political support for, like abolishing the death</p> <p>6 penalty is a good example, or legalizing cocaine.</p> <p>7 That's a -- you know, he's got his own constraints.</p> <p>8 The other thing would be having to put up</p> <p>9 with what the press does every time that he declares</p> <p>10 something a legislative emergency. The press will say,</p> <p>11 you know, he'll declare -- let's use an example -- that</p> <p>12 this is Bugs Bunny's hundredth birthday, and we're going</p> <p>13 to do -- we're going to have a -- he's got to put up</p> <p>14 with people picking on him for saying that. Those are</p> <p>15 the only sort of limitations. He's otherwise free to do</p> <p>16 as he pleases.</p> <p>17 Q. Are there any particular individuals within the</p> <p>18 Governor's Office of which you're aware who are</p> <p>19 responsible for setting out the declarations of</p> <p>20 legislative emergencies?</p> <p>21 A. No, not that I'm aware of. I can take guesses,</p> <p>22 but I'm not going to do that.</p> <p>23 Q. Were you a part of any conversations concerning</p> <p>24 what would be declared a legislative emergency in 2011?</p> <p>25 MR. HUGHES: I'm going to instruct --</p>	<p style="text-align: center;">180</p> <p>1 Floor. I don't recall if the caucus put anything out.</p> <p>2 Q. Anything else?</p> <p>3 A. No, not that I can recall.</p> <p>4 Q. Is there any election set to occur in Texas</p> <p>5 during the session or early in the session?</p> <p>6 A. Forgive me. I don't remember.</p> <p>7 Q. Of which you're aware?</p> <p>8 A. Yeah, maybe you could help refresh my memory</p> <p>9 I don't remember one.</p> <p>10 Q. Okay. Do you have any other understanding of</p> <p>11 why voter ID would be a legislative emergency?</p> <p>12 A. Because the public wanted it.</p> <p>13 Q. Are you aware of any conversation concerning</p> <p>14 SB 14 that occurred before it was submitted for</p> <p>15 consideration in the Senate?</p> <p>16 MR. HUGHES: And again, I'm going to</p> <p>17 instruct you that if you can just answer it yes or no,</p> <p>18 then we're not going to get into the legislative</p> <p>19 privilege problem.</p> <p>20 A. No, I'm not aware of anything.</p> <p>21 Q. (By Mr. Freeman) What constituents did you</p> <p>22 speak with concerning SB 14?</p> <p>23 A. My staff.</p> <p>24 Q. Any lobbyists?</p> <p>25 A. No. Lobbyists usually don't care about stuff</p>

<p style="text-align: center;">181</p> <p>1 like that.</p> <p>2 Q. Any interest groups?</p> <p>3 A. Not me personally. Interest groups may have</p> <p>4 called in to the office.</p> <p>5 Q. Anyone stop by your office to talk about the</p> <p>6 bill?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Did Catherine Engelbrecht ever stop by your</p> <p>9 office?</p> <p>10 A. I don't know who that is.</p> <p>11 Q. Did Paul Bettencourt ever stop by your office?</p> <p>12 A. You know, I've heard that name Paul</p> <p>13 Bettencourt. Is he a Valley person?</p> <p>14 Q. I'll represent to you that he is not, that he's</p> <p>15 from Harris County.</p> <p>16 A. Okay. Forgive me. I recognize the name, but I</p> <p>17 don't know who they are and I can't put a face to it.</p> <p>18 Q. Okay. So he didn't stop by your office?</p> <p>19 A. Oh, I don't know.</p> <p>20 Q. Did you speak directly with any experts</p> <p>21 concerning SB 14?</p> <p>22 A. In committee.</p> <p>23 Q. Did you speak directly with any representatives</p> <p>24 of minority groups?</p> <p>25 A. My staff. Oh, forgive me. You mean organized.</p>	<p style="text-align: center;">183</p> <p>1 Q. Okay.</p> <p>2 A. Not that I have a -- actually, I was a member</p> <p>3 of the GI Forum. Don't have any objection to them. Bu</p> <p>4 t they're not as organized as you may think, okay?</p> <p>5 They're out there, but they're not -- they don't have a</p> <p>6 legislative person. They have individuals who come by</p> <p>7 and see you. LULAC is a very diverse group, in that</p> <p>8 each -- they each have individual districts or chapters,</p> <p>9 and they all speak differently. You know, the State is</p> <p>10 the only who speaks with a coherent position.</p> <p>11 So, I'll have LULAC members back home, and</p> <p>12 they'll have -- they'll say whatever they personally</p> <p>13 feel, but then the State will come down with a</p> <p>14 position. MALC, they tend to have a progressive</p> <p>15 position on things. I give consideration to MALDEF</p> <p>16 probably more than other groups.</p> <p>17 Q. Did any suggestions made by MALDEF or any of</p> <p>18 these other groups find their way into the final bill as</p> <p>19 passed?</p> <p>20 A. I don't recall. Like I said, what I do recall</p> <p>21 is that some of these organized groups took positions</p> <p>22 against the bill.</p> <p>23 Q. Did DPS or SOS ever provide you with an</p> <p>24 analysis what voters possessed the identification</p> <p>25 required by SB 14?</p>
<p style="text-align: center;">182</p> <p>1 Q. I mean organized minority groups, yeah.</p> <p>2 A. In committee.</p> <p>3 Q. No one came by your office?</p> <p>4 A. They may have. They would speak to my staff,</p> <p>5 I'm sure.</p> <p>6 Q. Did you speak with anyone at any public events?</p> <p>7 A. Not that I recall.</p> <p>8 Q. Do you recall whether any minority groups</p> <p>9 advocated for particular changes in the bill?</p> <p>10 A. Look, I'm aware of MALDEF's position, and</p> <p>11 they're always involved in the subject area. And I'm</p> <p>12 aware of like the ACLU. They're always involved in the</p> <p>13 question. I got lost from the question. What was it?</p> <p>14 Q. Are you aware of any minority groups who</p> <p>15 particularly advocated for any particular changes to</p> <p>16 SB 14?</p> <p>17 A. You know, most of it was, "We just don't like</p> <p>18 it." Okay? But I don't recall changes.</p> <p>19 Q. So they were just urging you to vote against</p> <p>20 it?</p> <p>21 A. No. The groups that I mentioned, MALDEF,</p> <p>22 LULAC.</p> <p>23 Q. GI Forum?</p> <p>24 A. GI Forum. Well, okay. GI Forum, I don't talk</p> <p>25 with.</p>	<p style="text-align: center;">184</p> <p>1 MR. HUGHES: And I'm going to caution you</p> <p>2 on legislative privilege not to reveal any nonpublic</p> <p>3 communications that you had with legislators,</p> <p>4 legislative staff, or DPS or SOS.</p> <p>5 A. Not that I recall.</p> <p>6 Q. (By Mr. Freeman) Do you recall when SB 14 was</p> <p>7 filed in the Senate?</p> <p>8 A. No. Go ahead. I'm going to grab some water.</p> <p>9 MR. FREEMAN: Let's take a break a two-</p> <p>10 minute break. Off the record.</p> <p>11 (Recess from 2:53 to 3:02 p.m.)</p> <p>12 Q. (By Mr. Freeman) Are you aware of any</p> <p>13 conversations that occurred concerning who would sponsor</p> <p>14 SB 14 in the House? Yes or no?</p> <p>15 A. Yes.</p> <p>16 Q. When did those conversations occur?</p> <p>17 A. Before it came out.</p> <p>18 Q. Who was present?</p> <p>19 A. I don't know. I don't remember that.</p> <p>20 Q. Were you a part of those conversations?</p> <p>21 A. I heard. Heard.</p> <p>22 Q. So you're aware of the conversation?</p> <p>23 A. I'm aware of the conversation. I wasn't</p> <p>24 there. In other words, they hit my ears through a third</p> <p>25 person.</p>

<p style="text-align: center;">185</p> <p>1 Q. When did you sign onto SB 14 as a sponsor? 2 A. After it was filed. Sometime shortly 3 thereafter.</p> <p>4 Q. What was your role as the third-named sponsor? 5 A. I think my role was that I was -- I was giving 6 my blessing to the legislation. That's the way I saw 7 it. In other words, that I was satisfied that it ought 8 to be passed.</p> <p>9 Q. Are you aware of when the Select Committee on 10 Voter ID Identification and Voter Fraud began 11 considering SB 14?</p> <p>12 A. No.</p> <p>13 Q. If it was a legislative emergency, was it early 14 in the session?</p> <p>15 A. We all knew, all the way up until the session 16 before, that it was coming up.</p> <p>17 Q. Okay.</p> <p>18 A. That's the reason before the session started, I 19 was able to say, "This session, I'm supporting that 20 bill."</p> <p>21 Q. What's the emergency calendar?</p> <p>22 A. That designation allows you to be put up at the 23 front of the line rather than waiting in line like 24 everybody else does.</p> <p>25 Q. And is that controlled by the Calendar</p>	<p style="text-align: center;">187</p> <p>1 the Conference Committee, because it's a free -- you 2 have a free ride to try to get in or get out whatever it 3 is you want.</p> <p>4 Q. Regardless of whether it had been in or out in 5 either bill; it's not just resolving the differences?</p> <p>6 A. Right. Right. In other words, it's -- if 7 you're not paying attention, your whole bill could be 8 stripped and totally reversed in Conference Committee.</p> <p>9 Q. Okay. To your knowledge has the Secretary of 10 State or any local election official enforced SB 14 at 11 all?</p> <p>12 A. No.</p> <p>13 Q. Are you aware of any reports of confusion about 14 whether the bill is in effect?</p> <p>15 A. I saw on the Internet somebody say that they 16 were speaking at a black church to tell people that it 17 was not enforced. This was out of Houston or somewhere. 18 Just in my various readings, I scanned it, I saw it, and 19 that was it.</p> <p>20 Q. Anything else?</p> <p>21 A. Not that I can recall.</p> <p>22 Q. And we touched on this a little already, but 23 who are the main opponents of SB 14?</p> <p>24 A. Democrats.</p> <p>25 Q. Anyone in particular?</p>
<p style="text-align: center;">186</p> <p>1 Committee?</p> <p>2 A. Oh, I'm sorry. No, I think that -- well, I 3 don't know where that comes from, but the understanding 4 is that it always goes first.</p> <p>5 Q. Okay.</p> <p>6 A. There must be some rule or maybe Calendars 7 Committee decides that.</p> <p>8 Q. Are you aware of any changes that were 9 introduced to SB 14 in Conference Committee that had not 10 been in the version of the bill that passed either 11 House?</p> <p>12 A. Yes.</p> <p>13 Q. What changes occurred?</p> <p>14 A. If I remember, they took out the senior citizen 15 exemption, if I remember correctly. You can confirm 16 that with me.</p> <p>17 Q. Can you name any other instance when changes 18 like that were made?</p> <p>19 A. No, I can't. What do you mean by that? You 20 mean in other bills?</p> <p>21 Q. Other bills where a change was made in 22 conference that hadn't been in either the Senate or 23 House version?</p> <p>24 A. Oh, no, that happens. Look, Conference 25 Committee, that's the reason everybody wants to be on</p>	<p style="text-align: center;">188</p> <p>1 A. Progressives, organized groups that are part of 2 the Democratic coalition.</p> <p>3 Q. Any particular legislators?</p> <p>4 A. That are against it?</p> <p>5 Q. Uh-huh.</p> <p>6 A. Rafael Anchia is somebody I served with who has 7 been a vocal opponent of it.</p> <p>8 Q. Anyone else?</p> <p>9 A. I guess Trey Fischer Martinez. He's always got 10 an objection to everything that Republicans present.</p> <p>11 MR. GARZA: Now, now, now.</p> <p>12 A. That's just a little fun, okay?</p> <p>13 Q. (By Mr. Freeman) We're going to run to Trey, 14 and we're going to tell on you.</p> <p>15 A. He'll just say, you know, something derogatory 16 towards me. That's okay. (Laughing)</p> <p>17 Q. We're all friends here.</p> <p>18 Anyhow, did any of your constituents 19 express opposition to the bill?</p> <p>20 A. Hmm. Activist Democrats on the Internet.</p> <p>21 Q. Anyone who lived in your district?</p> <p>22 A. Not that I recall.</p> <p>23 Q. Were there any election officials who told you 24 that it wasn't necessary?</p> <p>25 A. My colleagues from the Valley, the Democratic</p>

<p style="text-align: center;">189</p> <p>1 colleagues from the Valley. 2 Q. Did the county judge of Hidalgo County express 3 opposition? 4 A. I would assume he'd be opposed to it. He's a 5 Democratic loyalist. 6 Q. Why was he opposed to it? 7 MR. HUGHES: It calls for speculation. 8 Q. (By Mr. Freeman) If you're aware? 9 A. It's his natural orientation, philosophical 10 orientation. 11 Q. Was there substance to the opposition of which 12 you were aware? 13 A. Substance? All the arguments you've made today 14 would be echoed and embraced by some of the Democratic 15 activists from back home, including the county judge. 16 Q. Representative Pena, I've only asked questions. 17 A. The inferences that are made within your 18 questions, then. 19 No, back home -- okay. I better shut up, 20 because I'm just going to chatter on, and y'all have to 21 get on. 22 Q. You have interesting things to say, and we have 23 seven hours to talk. 24 A. No. No. Keep going. 25 MR. HUGHES: Just answer the questions.</p>	<p style="text-align: center;">191</p> <p>1 A. Not that I recall. 2 Q. Have you ever made any public statements about 3 on the subject of whether SB 14 might disproportionately 4 impact Hispanic voters? 5 MR. HUGHES: Can you ask that one again? 6 Q. (By Mr. Freeman) Have you made any public 7 statements about on the subject of whether SB 14 might 8 disproportionately impact Hispanic voters? 9 A. Not that I recall. 10 Q. Do you recall telling Governing Magazine, 11 quote, "This is not racial at all. It's the mark of 12 desperation when they constantly bring up these things"? 13 A. Did I say that? 14 Q. Do you recall saying that? 15 A. No, I don't recall. 16 Q. I don't want to put words in your mouth, but 17 I'm happy to put it in front of you. 18 A. I trust you. If you say that I said that. 19 THE WITNESS: Can I say something off the 20 record? Do we have permission from you to say something 21 off the record? 22 MR. FREEMAN: There is a question 23 pending. 24 MR. HUGHES: Let's -- 25 THE WITNESS: Okay. I don't need to say</p>
<p style="text-align: center;">190</p> <p>1 A. Keep going. 2 Q. (By Mr. Freeman) Are the concerns that other -- 3 the Hispanic-elected officials who you named, your two 4 colleagues who you named who are also both Hispanic, are 5 the reasons for their opposition that they expressed 6 similar to the concerns that you once held about the 7 bill? 8 MR. HUGHES: And I'm going to remind you 9 about the legislative privilege and not to disclose, you 10 know, off-the-record communications between you and 11 other legislators or legislative staff or your own 12 impression, mental impressions, thoughts, or opinions 13 about the legislation. 14 A. I don't know. 15 Q. (By Mr. Freeman) Did you make any public 16 statements about other legislators' opposition or other 17 groups' oppositions other than what we've discussed 18 today? 19 A. I don't understand the question. 20 Q. Did you ever -- so, for example, you made 21 public statements in favor of the bill. You made a 22 public statement that you believe the Attorney General 23 of the United States's opposition is political. Are 24 there any other public statements that you've made 25 concerning the arguments against SB 14?</p>	<p style="text-align: center;">192</p> <p>1 it. It was just a commentary. I shouldn't say it. 2 MR. FREEMAN: If we can mark this 377. 3 (Exhibit 377 marked for identification.) 4 MR. HUGHES: Do you have a question in 5 particular? 6 MR. FREEMAN: There is a question pending 7 of whether he recalls saying to Governing Magazine -- 8 Q. (By Mr. Freeman) Whether you recall saying, 9 "This is not racial at all. It's the mark of 10 desperation when they just constantly bring up these 11 things"? 12 A. Can you tell me where that is? 13 Q. I'm sorry. 14 MR. HUGHES: It's at the very bottom. The 15 very end of the second page. 16 A. Oh, okay. (Viewing document.) I don't recall, 17 okay? I'm quite serious. I don't recall, but if he 18 wrote it down, I suspect that it's more true than not. 19 Q. (By Mr. Freeman) Okay. 20 A. This is a publication I trust. 21 Q. Okay. But you testified earlier that you 22 didn't look at whether this facially-neutral law would 23 have a discriminatory impact, did you? 24 A. Well, I considered that. 25 Q. But you didn't look to see whether it was more</p>

<p style="text-align: center;">193</p> <p>1 likely or less likely that Hispanic voters would lack 2 the necessary ID, did you? 3 A. No, I considered that.</p> <p>4 Q. Did you look at the statistics about who had 5 the ID?</p> <p>6 A. Somebody presented those, but I don't -- I 7 don't recall specifically.</p> <p>8 Q. Now, you used to -- you used to litigate 9 employment --</p> <p>10 A. Yes.</p> <p>11 Q. -- issues, right?</p> <p>12 A. Yes.</p> <p>13 Q. And you're familiar with the idea that 14 sometimes a facially-neutral policy can have a 15 discriminatory effect, correct?</p> <p>16 A. I'm aware of that.</p> <p>17 Q. But you think that in this case, this facially- 18 neutral policy, regardless of whether Hispanics had -- 19 were less likely to have ID, that it was desperation to 20 bring up whether it would have a discriminatory effect?</p> <p>21 A. I'm aware that the Supreme Court of the United 22 States looked at a similar law and found it to be 23 constitutional.</p> <p>24 Q. Are you aware of whether the Supreme Court of 25 the United States considered at all whether Indiana's</p>	<p style="text-align: center;">195</p> <p>1 frustrating. Everything is racial. It's just 2 desperation, and it's very frustrating to have 3 everything be racial. Why wasn't I invited to this 4 meeting? Oh, it must be racial. Why did he get a 5 parking spot? It must be racial. And you get tired of 6 it after a point. And quite -- well, I'm not 7 going to just get on a soapbox. But it's just 8 frustrating that everything is racial, when we have -- 9 leaders of our community have to get past that element 10 of human behavior, where we see each other as 11 different. It is frustrating. And so I can only assume 12 that I'm speaking out of frustration. I'm sick and 13 tired of hearing that everything is racial.</p> <p>14 Q. At any point, did you have any conversations 15 about a Floor debate for SB 14?</p> <p>16 MR. HUGHES: Again, I'm going to instruct 17 on legislative privilege not to reveal off-the-record 18 conversations with other legislators, legislative staff, 19 or members of any government agency.</p> <p>20 A. Outside of the legislative privilege, I don't 21 recall any.</p> <p>22 Q. (By Mr. Freeman) No, I'm just asking yes or no 23 if you recall them. And in terms of not disclosing the 24 content, you can tell me yes or no.</p> <p>25 MR. HUGHES: You can answer that.</p>
<p style="text-align: center;">194</p> <p>1 law would have a disparate impact? 2 A. I can only assume that the argument was made. 3 I mean, if you assume that lawyers of that caliber that 4 get cases to that point make every argument they can to 5 win, I assume it was made. 6 Q. So you're not aware? 7 A. I'm not aware. But I can assume, okay, that 8 good lawyers would have made that argument. If it goes 9 to the Supreme Court of the United States, I would 10 assume they made the argument.</p> <p>11 Q. And if you were to learn that they did not, if 12 you were to learn that that was just a due process case 13 that didn't address disparate impact on minority groups, 14 would that make you think differently about whether 15 SB 14 was problematic in terms of its racial impact? 16 A. You know, it's not relevant because we're 17 talking about now. I've already voted. 18 Q. But in terms of whether it's a mark of 19 desperation to bring up a racial impact, in terms of 20 that -- 21 A. Well, I think what I was referring to here, 22 assuming that I said it, was that almost every time we 23 bring up a bill that the progressives do not like, they 24 raise the racial argument and it waters down the 25 occasions when it really needs to be raised, and it gets</p>	<p style="text-align: center;">196</p> <p>1 A. Yes, I do recall. 2 Q. (By Mr. Freeman) Who did you have those 3 conversations with? 4 A. Aliseda. 5 Q. Anyone else? 6 A. Not that I recall. 7 Q. When did that conversation occur? 8 A. Right before he got up to speak, I said, "I'll 9 ask you questions." 10 Q. You didn't need to tell me that -- 11 A. I'm sorry, okay. 12 Q. -- but I don't think that you ruined your 13 counsel's case. 14 A. Okay. 15 Q. Okay. I am going to put in front of you what 16 has previously marked as Exhibit 9, which is the House 17 Journal from the day of the debate. And we're just 18 going to have a whirlwind tour of a couple of the 19 amendments. 20 Whirlwind, Mr. Hughes. 21 MR. HUGHES: Whirlwinds. 22 Q. (By Mr. Freeman) And if you could turn to 23 Page 969. 24 A. Okay. 25 Q. And Amendment 15.</p>

<p style="text-align: center;">197</p> <p>1 A. Yes.</p> <p>2 Q. And this amendment would have prohibited fees</p> <p>3 for the underlying documents necessary to receive any</p> <p>4 form of proof of identification under SB 14, correct?</p> <p>5 A. I'm sorry. State it again.</p> <p>6 Q. This amendment would have prohibited fees for</p> <p>7 the underlying documents necessary for an ID needed to</p> <p>8 vote under SB 14, correct?</p> <p>9 A. Okay. Yes.</p> <p>10 Q. What was the purpose of this amendment?</p> <p>11 A. I don't know. I mean, what was the purpose</p> <p>12 behind Mr. Martinez filing the amendment?</p> <p>13 Q. What was the purpose of the amendment? Had the</p> <p>14 amendment been a separate piece of legislation, what was</p> <p>15 the purpose of the amendment?</p> <p>16 MR. HUGHES: I'll object that it calls for</p> <p>17 speculation and remind you of the legislative privilege</p> <p>18 instruction.</p> <p>19 MR. FREEMAN: Mr. Hughes, I believe that</p> <p>20 this is the same functionally as asking the purpose of a</p> <p>21 piece of legislation.</p> <p>22 A. I can -- all I can do is read, and then make an</p> <p>23 assumption, okay, that the language has a purpose.</p> <p>24 Q. (By Mr. Freeman) And you voted to table this</p> <p>25 amendment, correct? You can see on page 970?</p>	<p style="text-align: center;">199</p> <p>1 Q. But you didn't vote against any aspect of the</p> <p>2 bill on the basis that it included military IDs, right,</p> <p>3 despite your lack of awareness of the security features</p> <p>4 of a military ID?</p> <p>5 A. I served in the military forces, and I know</p> <p>6 they are very careful in the presentation of their ID,</p> <p>7 in preparation of it. I can only assume that the United</p> <p>8 States Army or Marines or other branches must have more</p> <p>9 heightened security levels.</p> <p>10 Q. What about the Veterans Administration?</p> <p>11 A. I don't know.</p> <p>12 Q. Okay. You can turn to Amendment 34 on Page</p> <p>13 987.</p> <p>14 MR. HUGHES: 987?</p> <p>15 MR. FREEMAN: 987.</p> <p>16 Q. (By Mr. Freeman) Amendment 34 would have</p> <p>17 rendered the act unenforceable if it didn't comply with</p> <p>18 Section 5, Section 203, or Section 4(f)(4) of the Voting</p> <p>19 Rights Act, correct?</p> <p>20 A. That's what it says.</p> <p>21 Q. When you voted to table this amendment, what</p> <p>22 was your understanding of the purpose of the amendment</p> <p>23 or what is current understanding of the purpose the</p> <p>24 amendment, if that --</p> <p>25 A. Well, it speaks for what it wants to do. But</p>
<p style="text-align: center;">198</p> <p>1 A. Okay. I assume. If Mr. Trey Fischer Martinez</p> <p>2 gets up, it's more than likely I'm going to move to</p> <p>3 table.</p> <p>4 Q. And as we discussed above, do you believe that</p> <p>5 a cost for a document necessary to get an ID is a part</p> <p>6 of the cost of getting the document?</p> <p>7 MR. HUGHES: Asked and answered. But you</p> <p>8 can still answer it again.</p> <p>9 A. The free ID is free.</p> <p>10 Q. (By Mr. Freeman) If you'd turn to Amendment 23</p> <p>11 on Page 979. Is it the case that Amendment 23 would</p> <p>12 have added a student identification card issued by a</p> <p>13 public or private high school or institution of higher</p> <p>14 education that contains a photograph?</p> <p>15 A. That's what it looks like it says.</p> <p>16 Q. But you voted to table this amendment, correct?</p> <p>17 A. Right. I have previously stated to you that I</p> <p>18 don't think there are enough security protocols in a</p> <p>19 high school ID.</p> <p>20 Q. Are you aware of the security protocols in a</p> <p>21 military ID?</p> <p>22 A. No, but I trust that they are significant.</p> <p>23 Q. Does a military ID include a military</p> <p>24 employment ID for outside contractors, are you aware?</p> <p>25 A. No, I don't know.</p>	<p style="text-align: center;">200</p> <p>1 let me explain that when a bill has been hashed out by</p> <p>2 the majority and has been debated within that majority</p> <p>3 coalition --</p> <p>4 Q. Uh-huh.</p> <p>5 A. -- one of the strategies to defeat a bill is to</p> <p>6 load it up with amendments. And what the author</p> <p>7 typically says, or what we understand is, stay with the</p> <p>8 bill, we've worked hard on it this far, let's just get</p> <p>9 it through. And so you can have perfectly good</p> <p>10 amendments that sound perfectly well and reasonable, but</p> <p>11 because we've already hashed out the bill, and we've</p> <p>12 already negotiated it, you simply want to get it</p> <p>13 through.</p> <p>14 Q. Aren't most of the Representatives in the</p> <p>15 minority communities in Texas not a part of that</p> <p>16 majority coalition?</p> <p>17 A. No, they're represented there. I mean, it has</p> <p>18 a color of skin that you want.</p> <p>19 Q. Aren't most Representatives who are preferred</p> <p>20 candidates of minority voters not a part of the majority</p> <p>21 coalition?</p> <p>22 A. I don't like that term, "preferred</p> <p>23 candidates." I was the preferred candidate for my</p> <p>24 district, and then I switched parties, and all of a</p> <p>25 sudden I was unpreferred. That doesn't make sense.</p>

<p style="text-align: center;">201</p> <p>1 Sometimes y'all get lost in the legalese and common 2 sense goes out the door.</p> <p>3 Q. Well, let's -- let's -- outside of your unique 4 circumstances, with regard to the candidates who were 5 voted -- who were voted for by minority voters, aren't 6 most of those legislators outside of the majority 7 coalition?</p> <p>8 A. I think that those people tried try their best 9 to represent those people. I think that the minority 10 voters -- that these other people try their best to 11 represent them. Now, maybe their experiences are a 12 little different, but nothing is perfect. Everybody 13 tries to do their best.</p> <p>14 Q. Okay. I will repeat my question, because I 15 believe you haven't answered it.</p> <p>16 Aren't most the Representatives who are 17 elected by voters who are minorities not in the majority 18 coalition?</p> <p>19 A. Understanding what you intend to say and your 20 meaning behind those words, I think you're right.</p> <p>21 Q. Isn't the opportunity for those --</p> <p>22 A. But I don't agree that that -- with the 23 judgment that I think you're making.</p> <p>24 Q. My question is intended only to rest on 25 empirical facts, and as long as we are sharing the same</p>	<p style="text-align: center;">203</p> <p>1 If you look to Page 1009 to 1010, 2 Amendment 50. And Amendment 50 would have reimbursed 3 poor individuals for the costs necessary to travel to 4 get an ID, right?</p> <p>5 A. Yeah. That's what it says.</p> <p>6 Q. And what's your understanding of the purpose of 7 this amendment?</p> <p>8 A. I can only assume. Richard filed this as a -- 9 well, because it sounds good, but it makes the 10 legislation unworkable or burdensome.</p> <p>11 Q. Burden some on whom?</p> <p>12 A. In its implementation.</p> <p>13 Q. On whom?</p> <p>14 A. On the state.</p> <p>15 Q. Is it better to place the burden on the state 16 than on the poor voter?</p> <p>17 A. Under these circumstances, no. And that's why 18 I probably moved to table it or I moved --</p> <p>19 Q. You voted to table it.</p> <p>20 A. Voted to table.</p> <p>21 Q. Correct? Yes?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Isn't it true that the majority of -- 24 pardon me. Isn't it true that members of racial or 25 language minority groups in Texas are far more likely to</p>
<p style="text-align: center;">202</p> <p>1 understanding of the meaning of those facts in terms of 2 voting patterns, not in term of theories of 3 representation, is that something we can agree on?</p> <p>4 A. Okay.</p> <p>5 Q. Okay. Isn't the amendment process the 6 opportunity that those Representatives outside of the 7 majority coalition -- isn't that their opportunity to 8 effect and shape a bill?</p> <p>9 A. That's what it should be. Unfortunately, it's 10 become a weapon used by the minority, not minorities, 11 but the minority coalition, to delay and chub and try to 12 derail the process. It's a legitimate strategy. Kind 13 like at the end of a football game when people try to 14 run out the clock, it is an acceptable strategy.</p> <p>15 But so is it acceptable for the majority 16 to say, "We're not taking any amendments. This is what 17 we want. We already have the votes." And this is such 18 a long-held discussion on a question, everybody had 19 their mind made up. So, when things come up like, you 20 know, let's salute George Washington and something 21 really good, you know, everybody can agree to, we're 22 going to turn it down, because it's just an attempt to 23 delay the process.</p> <p>24 Q. Okay. Then let's just through a couple more 25 amendments very quickly.</p>	<p style="text-align: center;">204</p> <p>1 live below the federal poverty line than Anglos?</p> <p>2 A. Yeah. I've said that. That's likely true, 3 because of the history that we've gone through.</p> <p>4 Q. And a lot of people in your district are poor, 5 as we've discussed, right?</p> <p>6 A. Yes, they are.</p> <p>7 Q. And so didn't voting to table this amendment 8 choose to place the burden that this amendment 9 recognizes on those poor people in your district rather 10 than on the state?</p> <p>11 A. What I know is that the Supreme Court of the 12 United States has interpreted this law, in some 13 variation of the one presented in Texas, to be not 14 overly burdensome.</p> <p>15 Q. My question was your understanding of whether 16 it was placing that burden on poor voters rather than on 17 the state, not the Supreme Court's --</p> <p>18 A. I don't think it's one or the other. I think 19 there's a balancing test, and we, the policy deciders, 20 made a choice, and I was comfortable in that choice.</p> <p>21 Because previously, the United States Supreme Court has 22 said that some version of this bill was acceptable and 23 not overly burdensome.</p> <p>24 Q. Can you turn to 1015, Amendment 54. Take a 25 look at that real quick. And this amendment would have</p>

<p style="text-align: center;">205</p> <p>1 -- are you ready?</p> <p>2 A. Yes, I'm ready.</p> <p>3 Q. And this amendment would have required the</p> <p>4 Secretary of State to determine who was prevented from</p> <p>5 voting and who filed provisional ballots that were not</p> <p>6 counted according to racial group, right?</p> <p>7 A. Yes, that's what it looks like it says.</p> <p>8 Q. And you voted to table that amendment, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Is there something going on behind my head?</p> <p>11 A. There's like two military helicopters flying</p> <p>12 over. It's not a common sight. It's common in</p> <p>13 San Antonio, but not here.</p> <p>14 (Pausing for helicopter noise.)</p> <p>15 They're looking for you. Either that or</p> <p>16 Eric Holder is landing.</p> <p>17 (Laughter)</p> <p>18 Q. I don't know how Eric Holder travels.</p> <p>19 A. That was a joke, for the record.</p> <p>20 Q. I know, yes.</p> <p>21 A. Okay.</p> <p>22 Q. Oh, I'm sure the record knows too.</p> <p>23 Anyhow, let's just take a step back.</p> <p>24 Amendment 54, isn't it the case that it</p> <p>25 would have required the Secretary of State to determine</p>	<p style="text-align: center;">207</p> <p>1 to be accepted. As with the many previous other</p> <p>2 amendments, it was an attempt to make political -- to</p> <p>3 create a political advantage for the newspapers or I</p> <p>4 guess in this litigation. So he probably wasn't</p> <p>5 thinking of this litigation, but any opportunity to</p> <p>6 embarrass the majority,</p> <p>7 MR. FREEMAN: Can we go off the record for</p> <p>8 a minute?</p> <p>9 MR. HUGHES: Yes.</p> <p>10 (Recess from 3:35 a.m. to 3:41 p.m..)</p> <p>11 MR. FREEMAN: We are back on the record.</p> <p>12 Q. (By Mr. Freeman) Very quickly, I can guess what</p> <p>13 your response is going to be, but if I can very quickly</p> <p>14 just go through it. Can you look at Amendment 55 on</p> <p>15 page 1016. Can you take a look real quickly?</p> <p>16 A. Yes.</p> <p>17 Q. Amendment 55 would have required the Secretary</p> <p>18 State to determine whether the majority of voters</p> <p>19 casting provisional ballots did so because they lacked</p> <p>20 photo ID were minority, and if that were the case, to</p> <p>21 allow them to use voter registration certificates,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. What was the purpose this amendment?</p> <p>25 MR. HUGHES: Again, I would just caution</p>
<p style="text-align: center;">206</p> <p>1 who was prevented from voting and who filed provisional</p> <p>2 ballots that were not counted according to demographics?</p> <p>3 A. Yes, that's right.</p> <p>4 Q. And you voted to table that, correct?</p> <p>5 A. Yeah. Again, as I said, the question had been</p> <p>6 decided, amendments were -- are usually filed of this</p> <p>7 nature when the minority coalition knows that it's going</p> <p>8 to lose, to embarrass the majority by offering something</p> <p>9 that's apple pie and sounds good, but has not been part</p> <p>10 of the previously-negotiated bill. So yeah, I voted</p> <p>11 against it.</p> <p>12 Q. Would it concern you if Hispanic voters were</p> <p>13 disproportionately showing up at polling places and</p> <p>14 turned away because they didn't have the -- not turned</p> <p>15 away, but voted a provisional ballot that didn't count</p> <p>16 because Hispanic voters didn't have the ID?</p> <p>17 A. Would it concern me?</p> <p>18 Q. Uh-huh.</p> <p>19 A. It would be something that I'd want to know.</p> <p>20 Q. Well, if it was something you wanted to know,</p> <p>21 why did you vote against the amendment that precisely</p> <p>22 would have given you that information?</p> <p>23 A. I told you. It's because we had previously</p> <p>24 negotiated the bill. This -- Representative Alvarado</p> <p>25 knew full well this bill, this amendment was not going</p>	<p style="text-align: center;">208</p> <p>1 you on the legislative privilege. Under the court's</p> <p>2 order, you can talk about the general purpose, but not</p> <p>3 individual --</p> <p>4 A. I assume the purpose was what it says.</p> <p>5 Q. (By Mr. Freeman) And you voted to table this,</p> <p>6 correct?</p> <p>7 A. Yes, for the same reasons I've described</p> <p>8 before.</p> <p>9 Q. Okay. And Amendment 58 on Page 1021. This</p> <p>10 would have -- I'll let you take a look real quickly</p> <p>11 first.</p> <p>12 A. Go ahead.</p> <p>13 Q. This would have required a study by county and</p> <p>14 ethnicity of access to the necessary photo ID, along</p> <p>15 with an analysis of the potential impact on voter</p> <p>16 turnout, right?</p> <p>17 A. Okay.</p> <p>18 Q. What was the purpose of the amendment?</p> <p>19 MR. HUGHES: The same caution.</p> <p>20 A. The same thing; whatever it says, that's what</p> <p>21 the purpose was. But I voted to table, I'm sure, for</p> <p>22 the same reason, that many of these amendments were put</p> <p>23 up simply to delay the process, to add to a bill that</p> <p>24 had been hashed out, where the votes were already known</p> <p>25 and we had a long-standing argument going on for years,</p>

<p style="text-align: center;">209</p> <p>1 and we finally wanted to get it over with.</p> <p>2 Q. Okay. Do freshman frequently provide the</p> <p>3 closing remarks after a debate on a major bill?</p> <p>4 A. They can.</p> <p>5 Q. Are there any other instances that you're aware</p> <p>6 of, where a freshman delivered closing remarks on a</p> <p>7 major bill?</p> <p>8 A. I did.</p> <p>9 Q. When was that?</p> <p>10 A. On the budget.</p> <p>11 Q. In 2001 or 2003?</p> <p>12 A. Yeah. Are you aware of it?</p> <p>13 Q. I'm asking. I don't know.</p> <p>14 A. That was like my main speech, so I remember it.</p> <p>15 Q. Okay. Are you aware of any conversations</p> <p>16 concerning who would deliver the closing remarks</p> <p>17 considering SB 14?</p> <p>18 MR. HUGHES: The same legislative</p> <p>19 privilege instruction.</p> <p>20 Q. (By Mr. Freeman) Yes or no.</p> <p>21 MR. HUGHES: Yeah, you can answer yes or</p> <p>22 no.</p> <p>23 A. No. No. I don't know.</p> <p>24 Q. (By Mr. Freeman) Okay. And did you move to</p> <p>25 have Representative Aliseda's closing remarks printed in</p>	<p style="text-align: center;">211</p> <p>1 ethnic groups. Well, he's from Mexico, for God's sakes,</p> <p>2 and he became an American citizen. And so that attack</p> <p>3 couldn't be made to him. The fact that he was a</p> <p>4 prosecutor and prosecuted these very similar cases was</p> <p>5 important. And so his remarks embodied the conservative</p> <p>6 perspective, and certainly the conservative Hispanic</p> <p>7 perspective. And so I was -- I assumed I was moved to</p> <p>8 put it in record so that it could be remembered.</p> <p>9 Q. And you just mentioned that Representative</p> <p>10 Aliseda prosecuted voter fraud cases. Are you aware of</p> <p>11 whether he ever prosecuted a case related to in-person</p> <p>12 voter impersonation?</p> <p>13 A. No, I don't know.</p> <p>14 Q. Okay. Are you aware that when Representative</p> <p>15 Larry Gonzales was deposed in this case just yesterday,</p> <p>16 he was not carrying a photographic voter ID -- or a</p> <p>17 photographic ID?</p> <p>18 A. He wasn't? He didn't?</p> <p>19 Q. No.</p> <p>20 A. No, that doesn't surprise me. Look, the only</p> <p>21 reason I have my wallet is because I've got to go to the</p> <p>22 airport. Otherwise, I don't like to carry anything.</p> <p>23 It's too burdensome. Too burdensome and too fat, and</p> <p>24 I'm fat enough as it is.</p> <p>25 Q. Do you still believe ID is necessary to do</p>
<p style="text-align: center;">210</p> <p>1 record?</p> <p>2 A. Is that what the record says?</p> <p>3 Q. You can look at --</p> <p>4 A. Yes. Yes, I did.</p> <p>5 Q. -- on Page 1031.</p> <p>6 A. Yes, I did.</p> <p>7 Q. Okay.</p> <p>8 A. Representative -- yes, I did.</p> <p>9 Q. Did you agree with Representative Aliseda's</p> <p>10 remarks?</p> <p>11 A. Very good. He captured the spirit of what many</p> <p>12 of us feel. Look, we are Hispanic and very proud to be</p> <p>13 of that culture. I'm from the area. My ancestors go</p> <p>14 back to the founding soldiers who came to colonize the</p> <p>15 area. And Aliseda is the same way. We simply have a</p> <p>16 difference of opinion that's not racial in nature. We</p> <p>17 want to clean up voter fraud. We see a lot of it where</p> <p>18 we live. It's unfair that politicians are enriched and</p> <p>19 when poor people are having to pay that tax. I</p> <p>20 sincerely feel that way, and he sincerely feels that</p> <p>21 way.</p> <p>22 Representative Aliseda is a person born in</p> <p>23 Mexico. The common refrain is, "Well, you're not</p> <p>24 Mexican enough. You're not really a Mexican." That's</p> <p>25 what Mexican Americans say to each other, as do other</p>	<p style="text-align: center;">212</p> <p>1 everything in our society?</p> <p>2 A. Increasingly, it's becoming that way. And</p> <p>3 increasingly, it is -- I think the general public has</p> <p>4 come to accept these inconveniences.</p> <p>5 Like coming in this office, for example, I</p> <p>6 cannot ever imagine a law firm, you have to get</p> <p>7 permission to enter the door. But increasingly, our</p> <p>8 society has these limitations or security measures that</p> <p>9 are set up. I love the way that we used to travel, just</p> <p>10 jumping on the plane. But we live in a different world</p> <p>11 and people are demanding more security. Increasingly,</p> <p>12 there are ways to corrupt the system, and people want</p> <p>13 solutions. And so yes. Yes to your question.</p> <p>14 Q. If Representative Aliseda prosecuted only</p> <p>15 issues that did not relate to voter impersonation and if</p> <p>16 the issues in your district did not relate to voter</p> <p>17 impersonation, but related more to voter assistance,</p> <p>18 mail-in vote harvesting and the like, won't this bill</p> <p>19 just give them a false sense of confidence, the voters,</p> <p>20 that the problem has been fixed?</p> <p>21 A. No, they'll know it's not been fixed, because</p> <p>22 it's growing where I'm at. Look, we had -- like I said,</p> <p>23 I had 88 complaints, 88 or 81, come into my office the</p> <p>24 other day. We had elections that were essentially</p> <p>25 bought by assisted voting. You have complaints that</p>

<p style="text-align: center;">213</p> <p>1 were filed recently from the City of Hidalgo. It's 2 running rampant where I live. And I come from a 3 Hispanic community, and those people want honest 4 elections. And that's why I sincerely come here and 5 have advocated for that position. And voter ID was a 6 starting point, okay? It's not the final solution, as 7 I've stated many times.</p> <p>8 Q. And that's actually a delightful segue. 9 Did you introduce any other bills, in the 10 82nd Legislature, regarding election administration?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know how many?</p> <p>13 A. I can guess around 30.</p> <p>14 Q. Around 30? Wow.</p> <p>15 A. Is it more?</p> <p>16 Q. Not quite.</p> <p>17 MR. FREEMAN: This is the last major 18 subject, Mr. Hughes. You don't need to stretch like 19 that.</p> <p>20 A. I will take your -- whatever you tell me it is, 21 that's what it is.</p> <p>22 Q. (By Mr. Freeman) Well, let's just real quickly 23 mark this is as U.S. Exhibit 378. It's a couple of your 24 blog posts.</p> <p>25 (Exhibit 378 marked for identification.)</p>	<p style="text-align: center;">215</p> <p>1 Q. I do. 2 A. Wow. How in the world do you find all this 3 stuff? 4 MR. FREEMAN: Can I have this marked as 5 U.S. 379. 6 (Exhibit 379 marked for identification.) 7 A. And even I know, this must be television. Not 8 radio, okay? Did you get that? It is television. 9 Yeah, so that's the reason I don't recall. But do I 10 recall television. 11 Q. (By Mr. Freeman) Okay. And do you see on Page 12 3, the last paragraph? 13 A. 3. 14 Q. Do you recall saying, "The Speaker of the House 15 has made this a priority when he created the Voter Fraud 16 Committee and the Voter ID Voter Fraud Committee"?</p> <p>17 A. Okay. I see that. 18 Q. And do you see in context that you were 19 referring to the mail-in segment, as you say in the 20 second paragraph on that same page? 21 A. I think I was jumping around. I was talking 22 about voter assistance. So I cannot say if that's what 23 -- that's not the limited context. 24 Q. Okay. But you were saying that fraud and the 25 issues that you were raising was priority, and the</p>
<p style="text-align: center;">214</p> <p>1 A. I'll tell you what. Let me just say: This is 2 why getting on the Internet and saying things is not -- 3 because you're going to be cross-examined about them. 4 But go ahead.</p> <p>5 Q. (By Mr. Freeman) There is nothing negative 6 about what you posted here.</p> <p>7 A. No, I agree. These are probably a list of 8 bills that I filed.</p> <p>9 Q. Indeed they are. Well, let me ask you: Did 10 you make these blog posts?</p> <p>11 A. Yeah. I remember -- I remember putting a thing 12 like this up, yes. I can't imagine that you -- that 13 it's fraudulently made. I assume it's true.</p> <p>14 Q. Is this your blog?</p> <p>15 A. Yes, it is.</p> <p>16 Q. Okay. Are there 19 bills listed here that 17 you --</p> <p>18 A. I trust your representation.</p> <p>19 Q. Do you recall saying during an interview with 20 KXAN that the Speaker had made issues concerning mail-in 21 ballot fraud a priority when he created the Select 22 Committee on Voter Identification and Voter Fraud?</p> <p>23 A. I don't recall. KXAN is not a radio station 24 I'm regularly -- I'm on. So I don't recall. If you 25 have that transcript, I'd love to read it.</p>	<p style="text-align: center;">216</p> <p>1 Speaker made it a priority when he created the Select 2 Committee on voter impersonation and voter fraud? 3 A. Yeah. That was my opinion, yes. 4 Q. But the 19 bills that you sponsored, none of 5 them were referred to the Select Committee; is that 6 correct? 7 A. You know, I remember they didn't all go to the 8 same committee. I think it's more than 19. But that's 9 the Speaker's prerogative. 10 Q. I apologize if I missed some. 11 A. Yeah, you missed some. But let me just say 12 that that's the Speaker's prerogative. I mean, he 13 doesn't have to say yes to everything I ask for. And 14 sometimes he has reason to send them somewhere else, and 15 somebody, either he or a chief of staff or a legislator 16 or a director made that decision, and so be it. 17 Q. And so in fact, the only bill that the voter 18 impersonation and voter fraud committee addressed didn't 19 address real world voter fraud, right? 20 A. Well, there are other reasons that there was 21 only one bill, and I touched on those briefly, but I 22 don't think I want to get into it. 23 Q. Okay. And you're not going to get into it on 24 the basis of legislative privilege, just so the record 25 is clear?</p>

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1 A. Yes. It had to do --
 2 MR. HUGHES: Again, caution you on the
 3 legislative privilege.
 4 A. Oh, okay. Look, as to my communications with
 5 other people that would explain the reasons why the
 6 committee didn't go forward with the legislation is a
 7 communication with other legislators and protected by
 8 the privilege.
 9 Q. (By Mr. Freeman) Now, if we could jump back to
 10 that article from Governing Magazine.
 11 A. Okay. I've got it.
 12 Q. And can you remind me what exhibit number that
 13 is, if that's on your copy?
 14 A. 377.
 15 Q. 377. Thank you.
 16 Do you see where you said here that many
 17 people who complained about the lack of voter confidence
 18 were unwilling to attach their names to bills that
 19 address real corruption?
 20 A. Yeah.
 21 Q. Why did you make that statement?
 22 A. Where I live, everybody knows that it goes on,
 23 but no legislator is likely to stand up for it because
 24 he's going against the beast that gets him elected.
 25 Being a member of the opposing party makes it easy for

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1 Q. Or excuse me. Died in committee or died in
 2 committee in either the House or the Senate?
 3 A. I did attach some of them as amendments to
 4 other bills. But, yes. That's true.
 5 Q. Would you agree that prioritizing photographic
 6 voter ID ignored real practical concerns about election
 7 integrity?
 8 A. Many people don't have the experience that I
 9 have down there, okay? They don't live with the day to
 10 day. It's not a -- you know, Dallas is beginning to
 11 experience it, and Laredo is beginning to experience
 12 it. It's like a cancer that's growing. And I'm not
 13 sure they understand the priorities.
 14 During the debate, many times I would say,
 15 "Hey, look, this is -- there's other kinds of voter
 16 fraud, and we need to deal with it." And people, I
 17 could tell, they were -- there was a novelty. Novelty
 18 is not right. It was a surprise to them.
 19 So I think these are well-meaning people;
 20 they just don't have the daily experience like I do, or
 21 other people along the border do, where we have a well-
 22 honed system of corruption going back to the boss era at
 23 the turn of the last century.
 24 Q. Now, you told Governing Magazine that the
 25 strength of SB 14 was it's a symbol that the legislature

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1 me to do that, but I did it anyway as a Democrat. But
 2 I'm freer to do it because the machine -- well, they
 3 were already coming after me, and so was the system, the
 4 politiqueras and everybody else, they wanted to
 5 eliminate me for speaking against their system.
 6 Q. But what about the people who aren't from South
 7 Texas but who are concerned about voter confidence, the
 8 main people speaking in favor of this bill, why, with
 9 regard to those people would complained about the lack
 10 of voter confidence, as you said in this article, why
 11 did you say in this article that those people were
 12 unwilling to attach their names to bills that address
 13 real corruption?
 14 A. Did I say specifically say other people?
 15 Q. You said -- you said, "Many people who complain
 16 about the lack of voter confidence."
 17 A. Yes.
 18 Q. Were you referring only to people in South
 19 Texas when you made that statement?
 20 A. Oh, I don't remember what I was referring
 21 to. A long time ago.
 22 Q. Isn't it the case that about the 19 bills
 23 listed on the -- on your website in that post, that 18
 24 of them died in committee?
 25 A. If you say so, but...

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1 was beginning to address corruption, correct?
 2 A. Yes.
 3 Q. But in the last legislature, it was pretty much
 4 the end as well, right?
 5 A. Well, it's the end because I'm not there, but
 6 others will the carry -- look, we've had a redistricting
 7 battle and I was one of the victims of that, and
 8 hopefully, somebody else will carry the banner. And I
 9 hope that other Hispanics have the courage to speak up
 10 for their own communities, that it doesn't have to be
 11 imposed on them without their involvement.
 12 MR. FREEMAN: All right. If we can just
 13 take a couple of minutes, I think I'm just about done.
 14 MR. HUGHES: Off the record.
 15 MR. FREEMAN: Let's go off the record.
 16 (Recess from 3:59 p.m. to 4:00 p.m.)
 17 MR. FREEMAN: Okay. Back on the record.
 18 Q. (By Mr. Freeman) Are you aware that you were
 19 designated as a person with knowledge and a likely
 20 witness by the State of Texas in this case?
 21 MR. HUGHES: I'm not sure I agree with
 22 that characterization. I think the first part is right.
 23 MR. FREEMAN: I'll withdraw my question
 24 and rephrase it.
 25 Q. (By Mr. Freeman) Are you aware that you were

<p style="text-align: center;">221</p> <p>1 designated by the State of Texas as a person with 2 knowledge of the issues and claims in this case? 3 A. You mean a designation that I could potentially 4 be a witness? 5 Q. Yes? 6 A. I was informed about that in either this case 7 or in the last case. 8 Q. If you were you called to testify in D.C., what 9 would your anticipated testimony be? 10 A. I would answer the questions that I was given, 11 just as I've answered them to you. I think you have a 12 gist of what I feel, and we have a slight difference of 13 opinion, but I think we want to achieve the same goal. 14 You want fair elections and I want fair elections. We 15 just disagree on how to get there. 16 Q. Okay. Are there any answers that you wish to 17 change from today? 18 A. I can't recall any. 19 Q. Is there any information that you didn't recall 20 previously that you recall now? 21 A. No, I can't recall any. 22 MR. FREEMAN: So I'm just going to state 23 for the record that this deposition is left open pending 24 any decisions concerning privilege over testimony and 25 documents. And with that, I pass the witness to</p>	<p style="text-align: center;">223</p> <p>1 Texas. 2 Q. Uh-huh. And you specifically mentioned, you 3 know, the La Joya-Sullivan City area and the Delta area 4 on the east? 5 A. Yes. 6 Q. And generally, those are areas that are away 7 from McAllen, which is the most urban of the -- 8 A. That's correct. 9 Q. Okay. And in McAllen is where you have some 10 viable public transportation? 11 A. Yes. 12 Q. Okay. But not in the other parts of the 13 county, correct? 14 A. I'm not aware of any, okay? There may be a 15 system that, since I don't live there, I'm not aware of 16 it. It would surprise me, because the market is not 17 there. There's not a market for regular transportation. 18 Q. All right. And Cameron County and Willacy 19 County and Starr County have similar socioeconomic 20 characteristics as Hidalgo County; that is, there are a 21 lot of poor people? 22 A. Yes. 23 Q. And there are a lot of brown people? 24 A. Yes. So you would find public transportation 25 probably in the Brownsville-Harlingen region, but in the</p>
<p style="text-align: center;">222</p> <p>1 Mr. Garza. 2 MR. GARZA: I just have a few questions. 3 EXAMINATION 4 BY MR. GARZA: 5 Q. You were -- in earlier testimony from 6 Mr. Freeman, you were talking about the lack of public 7 transportation in the region that you represent. Do you 8 recall that? 9 A. Yes. 10 Q. Now, Hidalgo County is part of a bigger, 11 generally referred to area as the Rio Grande Valley; is 12 that correct? 13 A. Yes. 14 Q. And that encompass a number of counties along 15 the border, is that correct? 16 A. Yes. 17 Q. Cameron County, Starr County on the east and 18 west of Hidalgo? 19 A. Yes. 20 Q. Any other counties? 21 A. Willacy County. 22 Q. Willacy County. And in that general area, 23 would you agree with me that there is a lack of public 24 transportation? 25 A. By urban standards, yes. Urban standards of</p>	<p style="text-align: center;">224</p> <p>1 surrounding regions, you would not have the -- I'm not 2 aware of any public transportation. There may be some 3 informal transportation that I simply don't know about. 4 Q. Right. 5 A. But that's generally correct. 6 Q. And would you also agree with me in the Rio 7 Grande Valley area that we've talked about, there is a 8 higher incidence of drivers without liability 9 insurance -- 10 A. Yes. 11 Q. -- than in other parts of the state? 12 A. Yes. 13 Q. And would you agree with me that that is, in 14 large part, due to economic reasons? 15 A. Yes. 16 Q. People can't afford to buy automobile 17 insurance? 18 A. Absolutely. 19 Q. And without automobile insurance, you are not 20 eligible to secure a driver's licenses in Texas; isn't 21 that correct? 22 A. Hmm. I know you can't get your license 23 plates. I'm not sure. If you say so. 24 Q. Okay. 25 A. It's been a while since I've got my license.</p>

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1 Q. Do you know, as an attorney and dealing with
 2 the legal problems of people in the Valley -- and when I
 3 say the Valley, I'm talking about the Rio Grande Valley
 4 -- that there is a problem with motorists involved with
 5 automobile accidents, who don't have insurance, having
 6 their licenses suspended?

7 A. Yes.

8 Q. Okay.

9 A. And because we're one of the more poorer
 10 regions, I would assume that we have high incidences of
 11 people without insurance.

12 Q. Okay.

13 A. Higher percentages of that.

14 MR. GARZA: I don't have any other
 15 questions.

16 MR. HUGHES: Nor do I.

17 THE WITNESS: God bless you all.

18 MR. HUGHES: Thank you so much.

19 (Signature reserved.)

20 (Deposition concluded at 4:06 p.m.)

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1 CHANGES AND SIGNATURE

2 RE: TEXAS VS. HOLDER, ET AL

3 PAGE LINE CHANGE REASON

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20 I, REPRESENTATIVE AARON PENA, have read the
 21 foregoing deposition and hereby affix my signature that
 22 same is true and correct, except as noted above.

23 _____

24 _____

25 REPRESENTATIVE AARON PENA

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1 THE STATE OF _____
 2 COUNTY OF _____

3
 4 Before me, _____, on this day
 5 personally appeared REPRESENTATIVE AARON PENA, known to
 6 me (or proved to me under oath or
 7 through _____ (description of identity
 8 card or other document) to be the person whose name is
 9 subscribed to the foregoing instrument and acknowledged
 10 to me that they executed the same for the purposes and
 11 consideration therein expressed.

12 Given under my hand and seal of office
 13 this _____ day of _____, 2012.

14
 15
 16 NOTARY PUBLIC IN AND FOR
 17 THE STATE OF _____

1
 2 IN THE UNITED STATES DISTRICT COURT
 3 FOR THE DISTRICT OF COLUMBIA

4 STATE OF TEXAS,)
 5 Plaintiff,)
 6 VS.)
 7 ERIC H. HOLDER, JR. in his)
 8 official capacity as Attorney)
 9 General of the United States,)
 10 Defendant,)
 11 ERIC KENNIE, et al,)
 12 Defendant-Intervenors,)
 13 TEXAS STATE CONFERENCE OF) CASE NO. 1:12-CV-00128
 14 NAACP BRANCHES,) (RMC-DST-Rlw)
 15) Three-Judge Court
 16 Defendant-Intervenors,)
 17 TEXAS LEAGUE OF YOUNG VOTERS)
 18 EDUCATION FUND, et al,)
 19 Defendant-Intervenors,)
 20 TEXAS LEGISLATIVE BLACK)
 21 CAUCUS, et al,)
 22 Defendant-Intervenors,)
 23 VICTORIA RODRIGUEZ, et al.,)
 24 Defendant-Intervenors.)
 25 REPORTER'S CERTIFICATION
 DEPOSITION OF REPRESENTATIVE AARON PENA
 JUNE 1, 2012
 I, Chris Carpenter, Certified Shorthand Reporter in
 and for the State of Texas, hereby certify to the
 following:
 That the witness, REPRESENTATIVE AARON PENA, was

1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF TEXAS,)
Plaintiff,)
VS.)
ERIC H. HOLDER, JR. in his)
official capacity as Attorney)
General of the United States,)
Defendant,)
ERIC KENNIE, et al.,)
Defendant-Intervenors,)
TEXAS STATE CONFERENCE OF) CASE NO. 1:12-CV-00128
NAACP BRANCHES,) (RMC-DST-RLW)
Defendant-Intervenors,) Three-Judge Court
TEXAS LEAGUE OF YOUNG VOTERS)
EDUCATION FUND, et al.,)
Defendant-Intervenors,)
TEXAS LEGISLATIVE BLACK)
CAUCUS, et al.,)
Defendant-Intervenors,)
VICTORIA RODRIGUEZ, et al.,)
Defendant-Intervenors.)

ORAL DEPOSITION OF
THE LEAGUE OF WOMEN VOTERS OS TEXAS
ANITA PRIVETT
JUNE 7, 2012

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2
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21
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23
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1 ORAL DEPOSITION OF ANITA PRIVETT, produced as a
2 witness at the instance of the Defendant, was duly
3 sworn, was taken in the above-styled and numbered cause
4 on the JUNE 7, 2012, from 9:38 a.m. to 12:51 p.m.,
5 before Chris Carpenter, CSR, in and for the State of
6 Texas, reported by machine shorthand, at the offices of
7 The Attorney General of the State of Texas, 209 West
8 14th Street, First Floor Conference Room, Austin, Texas
9 78701, pursuant to the Federal Rules of Civil Procedure
10 and the provisions stated on the record or attached
11 hereto.
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<p style="text-align: center;">5</p> <p>1 MR. MCKENZIE: All right. Good morning. 2 My name is John McKenzie. I work for the Texas Attorney 3 General, and I am representing the State of Texas in 4 this matter.</p> <p>5 If counsel will go ahead and introduce 6 yourselves.</p> <p>7 MS. ROBERTSON: Rebecca Robertson of the 8 ACLU of Texas, and I am here on behalf of the League of 9 Women Voters of Texas and the Department.</p> <p>10 MR. GEAR: Bruce Gear. I am with the 11 Department of Justice representing Eric Holder, the 12 Attorney General.</p> <p>13 MR. MILLER: I'm Angela Miller, also here 14 with the U.S. Department Of Justice, representing the 15 Attorney General, Eric Holder.</p> <p>16 ANITA PRIVETT, 17 having been first duly sworn to testify the truth, the 18 whole truth, and nothing but the truth, testified as 19 follows:</p> <p style="text-align: center;">EXAMINATION</p> <p>20 BY MR. MCKENZIE:</p> <p>22 Q. All right. And would you please state your 23 full name for the record.</p> <p>24 A. My name is Anita Spikes Privett.</p> <p>25 Q. And could you spell Privett for us, please?</p>	<p style="text-align: center;">7</p> <p>1 Q. Okay. Please wait until I finish my question 2 to answer. If we talk at the same time, the court 3 reporter can't capture all of our dialogue, and the 4 transcript will get jumbled. So if you don't mind 5 waiting until I finish my question to answer. Do you 6 understand?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. Your lawyer may object to a question. 9 Even if she objects, you must answer my question unless 10 she instructs you not to answer. Do you understand?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Are you represented by counsel today?</p> <p>13 A. She represents me.</p> <p>14 Q. Okay. And who is your counsel?</p> <p>15 A. Rebecca Robertson.</p> <p>16 Q. And when did that representation begin?</p> <p>17 A. Within the last six weeks.</p> <p>18 For you personally.</p> <p>19 Q. Okay. And do you understand that you have been 20 designated to provide testimony on behalf of the Texas 21 League of Women Voters today?</p> <p>22 A. I do.</p> <p>23 Q. Okay. And do you understand that your 24 testimony today is the testimony of the Texas League of 25 Young -- of Women Voters, I should say?</p>
<p style="text-align: center;">6</p> <p>1 A. P-r-i-v-e-t-t.</p> <p>2 Q. And have you ever been deposed before?</p> <p>3 A. No.</p> <p>4 Q. And are you suffering from any illnesses today 5 that will affect your ability to provide accurate 6 answers to my questions?</p> <p>7 A. Runny nose.</p> <p>8 Q. Okay. I think we'll be okay on that one. 9 Are you taking any medications that will 10 affect your ability to provide accurate answers to my 11 questions?</p> <p>12 A. No.</p> <p>13 Q. And are you aware of anything else that might 14 prevent you from accurately answering my questions?</p> <p>15 A. No.</p> <p>16 Q. All right. Since you've never been deposed 17 before, I'm going to go through a couple of ground 18 rules. Please answer audibly so the court reporter can 19 hear. And no nodding or shaking of the head. Do you 20 understand?</p> <p>21 A. Yes.</p> <p>22 Q. If you don't understand my questions, please 23 tell me, and I will attempt to rephrase. Do you 24 understand?</p> <p>25 A. Yes.</p>	<p style="text-align: center;">8</p> <p>1 A. Yes.</p> <p>2 Q. Okay. Unless I indicate otherwise, when I use 3 the term "you" in this deposition, I mean the 4 organization, not you personally, and I will clarify if 5 I mean you personally. Do you understand?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. We're going to go over some preparation 8 for the deposition. What did you do to get ready for 9 your deposition?</p> <p>10 A. I reviewed all of the documents that -- that 11 the League has produced associated with voter ID in the 12 last about six years.</p> <p>13 Q. Okay.</p> <p>14 A. And I met with counsel. I talked to some board 15 members.</p> <p>16 Q. Okay.</p> <p>17 A. And I also talked to one of the national staff 18 who provides guidance to states with regard to election 19 law.</p> <p>20 Q. Okay. And other than reviewing documents, 21 meeting with counsel, meeting with board members, and 22 what was the last thing you said?</p> <p>23 A. I talked to one of the national staff members.</p> <p>24 Q. And other than those four things, is there 25 anything else you did to prepare for the deposition?</p>

<p style="text-align: center;">25</p> <p>1 MS. ROBERTSON: You can ask for 2 clarification if you need it. 3 A. Do you mean how do we recruit? 4 Q. (By Mr. McKenzie) No. I mean -- it says that 5 one of the factors is resources. I understand your 6 testimony to say that one of the factors is resources, 7 and that means whether or not you have somebody who can 8 work on the item. And I guess I'm trying to understand 9 how do you decide whether someone can work on an item? 10 Is it that they have the aptitude to work on it or the 11 time to work on it? What does it mean that they can 12 work on it? 13 A. I would add passion to work on it. 14 Q. Okay. 15 A. Generally, those are -- those are the things, 16 yes. 17 Q. So passion, time, and expertise, one could say? 18 A. Yes. 19 Q. Okay. And so the factors, as I understand them 20 so far, are resources, likelihood of passage, and 21 whether or not the League has a preexisting position on 22 the issue. Are there any other factors you can think of 23 that would be relevant to the League's designation of an 24 item as an urgent matter for Lobby Days? 25 A. I don't think of any at the moment.</p>	<p style="text-align: center;">27</p> <p>1 Q. So was election law an urgent item on the -- 2 for the Lobby Days? 3 A. It was not one of the items that had been 4 identified prior to the session as a priority. 5 Q. Okay. 6 A. By the time of Lobby Day in early March, it was 7 recognized -- well, in the first place, voter ID was 8 already passed pretty much by then, I believe. 9 Q. So there wasn't anybody before session that had 10 been identified by the League of Women Voters who had 11 the passion, time, and expertise to deal with voter ID; 12 is that correct? 13 A. There was somebody who was identified as an 14 issue chair for election law. 15 Q. Okay. 16 A. As Advocacy Vice President, I had a team of 17 about close to 30 people, many of whom were issue chairs 18 for particular topics that over the years we had a 19 position on and that we expected to follow legislation 20 on. 21 Q. Okay. 22 A. And election law was one of those. 23 Q. But not voter ID specifically; is that correct? 24 A. No. 25 Q. Okay. And as to the preexisting position, I</p>
<p style="text-align: center;">26</p> <p>1 Q. Okay. On all of the factors other than 2 likelihood of passage, where did voter ID rate? 3 MS. ROBERTSON: Objection, compound. 4 Q. (By Mr. McKenzie) You may answer. 5 A. Say it again. 6 Q. Sure. For all the factors, other than 7 likelihood of passage, and by that I mean resources 8 available -- your counsel is correct; there is a 9 compound question. 10 When it comes to resources to address 11 voter ID, how did that rate prior to the session? 12 A. It was recognized that we would likely need 13 resources for that, and we would have an issue chair -- 14 that's the designation for the person who leads the 15 effort -- and we would have an issue chair for that. 16 Q. Uh-huh. So it had already been predetermined 17 that voter ID would require resources in the form of a 18 designated person to, I guess, address that issue? 19 A. I would say yes, except I would change it from 20 voter ID to election law. 21 Q. Okay. 22 A. Because we look at election law voter rights as 23 a broad topic. 24 Q. Okay. 25 A. And voter ID just falls within that.</p>	<p style="text-align: center;">28</p> <p>1 think that you've already answered, and let me know if 2 I'm mischaracterizing your testimony, that there wasn't 3 a preexisting position on voter ID per se, but there may 4 have been policies that broadly related to voter ID; is 5 that fair? 6 A. Well, again, time is the important issue. 7 Since voter ID began to come up before the legislature, 8 the first time it came up, we -- we identified it as 9 being something we would like to defeat. 10 Q. Okay. 11 A. And that's been a number of years. So we have 12 known ever since we initially identified it. I mean, we 13 relook at things pretty regularly, but ever since we 14 identified it as something that did not meet our overall 15 goals for election law, it was on our list of things to 16 defeat. 17 Q. And so what made you believe that there wasn't 18 a high likelihood of passage of voter ID? 19 MS. ROBERTSON: Objection, 20 mischaracterizes prior testimony. 21 Q. (By Mr. McKenzie) You may answer. 22 A. I don't think I said that. I believed that -- 23 that it would likely come up. 24 Q. Uh-huh. 25 A. But I didn't know that it would.</p>

<p style="text-align: center;">29</p> <p>1 Q. Uh-huh. 2 A. And I don't think I'm answering this right. 3 There was something -- something you said that caused me 4 to chase a rabbit, but ask the question again. 5 Q. Sure. And maybe I'll rephrase it slightly. 6 Well, I'll start with another question. 7 Isn't it true that prior to session, you 8 don't know if anything is actually going to pass; is 9 that right? 10 A. Right. 11 Q. Okay. So based on that, how do you decide 12 which bills are going to be urgent? Because you 13 mentioned before likelihood of passage is one of the 14 factors. So I guess I'm just asking: How do you 15 measure that? How do you measure likelihood of passage? 16 A. Perhaps I should have said, in how -- you 17 didn't really ask me how we set the priorities, so I'm 18 confused about how to answer this. Can you try again? 19 I'm sorry. 20 MS. ROBERTSON: Can you read back the 21 question? 22 (Requested portion was read back by the 23 court reporter.) 24 A. Okay. First of all, we don't, before the 25 session, identify specific bills.</p>	<p style="text-align: center;">31</p> <p>1 Transparency. We were concerned about what was 2 happening in terms of transparency of information. And 3 I'm afraid I'm having a brain freeze on what the other 4 two were that were actually for. 5 Q. Budget, transparency, and there are two more, 6 you say? 7 A. Yeah. 8 Q. Okay. If you remember those two more, just let 9 me know. 10 A. Okay. 11 Q. So we kind of went off my outline a little bit 12 there. But we spoke with -- we spoke about seminars, 13 that there weren't actually seminars per se, there were 14 Lobby Days. Anything else like a seminar that -- or 15 like a Lobby Day? 16 A. Again, are you talking about the whole period 17 of our efforts to defeat voter ID? 18 Q. Yeah. We'll start -- we'll start with the 19 whole efforts, and then -- 20 A. Okay. 21 Q. -- we'll drill down. 22 A. In the previous legislative session -- I don't 23 know about the one before that, but the previous 24 legislative session there was a January briefing of 25 staff, legislative staff, that the Texas Election Reform</p>
<p style="text-align: center;">30</p> <p>1 Q. (By Mr. McKenzie) Uh-huh. 2 A. We identify areas where we're concerned about 3 potential legislation. 4 Q. Okay. 5 A. Either we want the legislation to pass or we 6 don't, but we're concerned about what's going to 7 happen. Budget, for instance. 8 Q. Okay. 9 A. And so we identify some certain priority areas 10 to provide extra work on. 11 Q. Uh-huh. 12 A. Election law always becomes one of those, so we 13 don't necessarily label it as that. 14 Q. Ahead of time? 15 A. Yes. 16 Q. Do you always label the budget as -- 17 A. No. 18 Q. -- a priority? Okay. What were the priorities 19 prior to the legislative session? 20 MS. ROBERTSON: Objection, vague. Can you 21 specify the -- which legislative session? 22 MR. MCKENZIE: Sure. 23 Q. (By Mr. McKenzie) The 82nd Legislative Session 24 2011. 25 A. Let me see if I can even remember. Budget.</p>	<p style="text-align: center;">32</p> <p>1 Group did. 2 Q. Uh-huh. 3 A. I participated in -- in helping with some of 4 the development of the materials, just talking about 5 it. That's all. But I was not there. 6 Q. Okay. 7 A. But -- but our name was on it. 8 Q. Is there anything other than that? 9 A. In my role, I would talk about voter ID along 10 with the other issues in the legislative session when I 11 met with groups. I met with the local League of Women 12 Voters; I talked to them. I know I talked to a 13 statewide business women's group. Those are the ones 14 that I remember at the moment. 15 Q. Okay. And did you offer any speakers on voter 16 ID? 17 A. No. 18 Q. And did you, as an organization, offer any 19 testimony? 20 A. Yes. 21 Q. And did you offer testimony in the 82nd 22 Legislative Session, 2011? 23 A. Yes, I did. 24 Q. And the same question for the 2009 Legislative 25 Session.</p>

<p style="text-align: center;">33</p> <p>1 A. Yes.</p> <p>2 Q. And how about 2007?</p> <p>3 A. Yes.</p> <p>4 Q. And I mean you as an organization, not --</p> <p>5 A. Yes.</p> <p>6 Q. Because I know we're -- we're hitting, kind of,</p> <p>7 the cusp of when you started.</p> <p>8 A. I actually gave the last two -- two sessions</p> <p>9 worth myself, but yes, we did time before too.</p> <p>10 Q. And what about 2005?</p> <p>11 A. I don't really have any information about 2005.</p> <p>12 Q. Okay. And did you prepare any studies about</p> <p>13 voter ID?</p> <p>14 A. During that period, we didn't. We certainly</p> <p>15 read other people's studies, but we did not do any</p> <p>16 studies. The only election law-related study we did was</p> <p>17 about how to increase voter turnout.</p> <p>18 Q. Okay. And that study on voter turnout didn't</p> <p>19 deal with voter ID; is that correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Any academic papers or anything to that</p> <p>22 effect that the --</p> <p>23 A. No.</p> <p>24 Q. -- League issued? Okay.</p> <p>25 MS. ROBERTSON: Let him finish his</p>	<p style="text-align: center;">35</p> <p>1 Topic 8?</p> <p>2 A. The same thing I did for the other items.</p> <p>3 Q. The same question for the Topic 9: Have you</p> <p>4 been designated to testify on Topic 9?</p> <p>5 A. Yes.</p> <p>6 Q. Are you prepared to testify about Topic 9?</p> <p>7 A. Yes.</p> <p>8 Q. What did you do you to prepare to testify about</p> <p>9 Topic 9?</p> <p>10 A. The same thing I did for the other items.</p> <p>11 Q. Okay. And for Topic 10, have you been</p> <p>12 designated to testify about Topic 10?</p> <p>13 A. Yes.</p> <p>14 Q. Are you prepared to testify about Topic 10?</p> <p>15 A. Yes.</p> <p>16 Q. And what did you do to prepare to testify about</p> <p>17 Topic 10?</p> <p>18 A. The same thing I did the other items.</p> <p>19 Q. And Topic 11, have you been designated to</p> <p>20 testify on Topic 11?</p> <p>21 A. Yes.</p> <p>22 Q. Are you prepared to testify about Topic 11?</p> <p>23 A. Yes.</p> <p>24 Q. And what did you do to prepare to testify about</p> <p>25 Topic 11?</p>
<p style="text-align: center;">34</p> <p>1 question.</p> <p>2 A. I'm sorry.</p> <p>3 Q. (By Mr. McKenzie) No, that's fine. It's for</p> <p>4 our court reporter. I'm okay with it, but he won't be.</p> <p>5 MS. ROBERTSON: The record won't be</p> <p>6 pretty.</p> <p>7 Q. (By Mr. McKenzie) Now, for Topic 7. That was</p> <p>8 all on Topic 6. Topic 7, have you been designated to</p> <p>9 testify on Topic 7?</p> <p>10 A. I'm sorry. I didn't understand what you said.</p> <p>11 Q. I spoke a little quickly.</p> <p>12 Have you been designated to testify on</p> <p>13 Topic 7?</p> <p>14 A. Yes.</p> <p>15 Q. Are you prepared to testify about Topic 7?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. And what did you do to prepare to</p> <p>18 testify about Topic 7?</p> <p>19 A. The same thing I did for the other items.</p> <p>20 Q. All right. Topic 8, have you been designated</p> <p>21 to testify on Topic 8?</p> <p>22 A. Yes.</p> <p>23 Q. Are you prepared to testify about Topic 8?</p> <p>24 A. Yes.</p> <p>25 Q. And what did you do to prepare to testify about</p>	<p style="text-align: center;">36</p> <p>1 A. The same thing I did on the other items.</p> <p>2 Q. Okay. What are the requirements for membership</p> <p>3 in the League of Women Voters of Texas?</p> <p>4 A. There really are no specific requirements. We</p> <p>5 have male members as well as female members.</p> <p>6 Q. Okay.</p> <p>7 A. Generally, people are adults, but we don't</p> <p>8 check your ID.</p> <p>9 Q. Okay. So how does one become a member?</p> <p>10 A. One says one wants to join and offers up the</p> <p>11 membership fee.</p> <p>12 Q. Okay. And do they fill out an application or</p> <p>13 anything of that sort?</p> <p>14 A. They fill out a little form that gives us</p> <p>15 contact information and indicates what areas that they</p> <p>16 might be interested in.</p> <p>17 Q. And what is the membership fee?</p> <p>18 A. \$80.</p> <p>19 Q. \$80?</p> <p>20 A. A year.</p> <p>21 Q. \$80 per year. Okay. So it's \$80, and it's</p> <p>22 good for a year; is that correct?</p> <p>23 A. I said that, and as soon as I said it, it might</p> <p>24 be \$60, with a family membership is 80. I believe</p> <p>25 that's the case. I'm sorry.</p>

<p style="text-align: center;">37</p> <p>1 Q. Okay. \$60 a year for an individual? 2 A. Yes. 3 Q. And \$80 per year for a family. And are there 4 any limitations on how big the family can be? 5 A. Not that I am aware of, but it basically is 6 generally a spouse or a significant other. 7 Q. Okay. Is membership in a language, ethnic, or 8 racial minority group a requirement for membership in 9 the League of Women Voters of Texas? 10 A. No. 11 Q. Okay. Do you know the demographics of the 12 membership for the League of Women Voters of Texas? 13 A. No. 14 MS. ROBERTSON: Objection, vague, but go 15 ahead. 16 Q. (By Mr. McKenzie) So you don't know, for 17 instance, the percentage of members who belong to any 18 racial minority group; is that correct? 19 A. No, I do not. 20 Q. And the same thing for the language minority 21 group; is that correct? 22 A. I do not. 23 Q. Okay. How many members does your organization 24 have? 25 A. We have close to 2,000.</p>	<p style="text-align: center;">39</p> <p>1 Q. Okay. And do you think the purpose described 2 on Exhibit 2 is materially different from the exhibit 3 you offered -- I mean, from the testimony you offered as 4 to what the purpose of the League is? 5 A. No, I do not. 6 Q. Okay. And does this purpose state anything 7 about race, language, or ethnic minorities? 8 A. No. 9 Q. Okay. How do your efforts to oppose Senate 10 Bill 14 advance the purpose stated in Exhibit 2? 11 A. We are seeking to encourage policy in 12 government that allow full participation of all 13 citizens. 14 Q. Okay. And how does opposing Senate Bill 14 15 advance those purposes? 16 A. We believe that Senate Bill 14 is a step 17 backwards in terms of allowing the full participation of 18 all of our citizens. 19 Q. Okay. How is it a step backwards? 20 A. It puts what amounts to a poll tax in place for 21 some voters. It will confuse voters. It's confusing 22 election officials across the state. It will not 23 improve government. 24 Q. Okay. So let me just go back to the first 25 statement, that it is effectively a poll tax. How is it</p>
<p style="text-align: center;">38</p> <p>1 Q. Okay. And when you say you have 2,000 members, 2 that's 2,000 people who have paid the membership fee and 3 provided the personal information you described earlier 4 in your testimony; is that right? 5 A. Yes. Yes. 6 Q. Okay. What is the purpose of the League of 7 Women Voters of Texas? 8 A. Our purpose is to study issues related to 9 government and to educate the public on those issues. 10 Q. Okay. I'm going to show you what will be 11 marked as Exhibit 2. 12 (Exhibit 2 marked for identification.) 13 Q. (By Mr. McKenzie) Okay. Have you seen the 14 exhibit that has been marked as Exhibit 2? 15 A. Yes. 16 Q. And do you recognize this exhibit? 17 A. Yes. 18 Q. And can you identify what it is? 19 A. It's our mission statement. 20 Q. And it's not very long, so would you mind 21 reading it for the record? 22 A. "The League of Women Voters, a nonpartisan 23 political organization, encourages informed and active 24 participation in government and influences public policy 25 through education and advocacy."</p>	<p style="text-align: center;">40</p> <p>1 effectively a poll tax? 2 A. Persons who do not have a picture ID and who do 3 not have any documents that DPS will accept in order to 4 give them a free election certificate will have to pay 5 for, perhaps, a birth certificate. They may have been 6 born in some -- you know, New York or someplace else. 7 They'll have to figure out how to -- how to find out 8 what it's going to cost them to get their birth 9 certificate from New York, what it's going to cost, what 10 address they send the information to, to get it; all of 11 that kind stuff amounts to time, which, for a low-income 12 individual, can be a major problem. 13 Or perhaps they live in South Texas, 75 14 miles from a DPS office, and they don't have a car, and 15 there's no public transportation. Those are problems 16 that a low-income person will face in getting a 17 "free" -- I'm putting quotes around free -- ID. 18 Q. Okay. So let me sort of unpack the comparison 19 to a poll tax, based on what you just said. 20 Now, is it your understanding that poll 21 taxes were universally applied to all voters as a quid 22 pro quo, that you pay money in order to vote? Is that 23 your understanding of the poll tax? 24 A. Additionally, it was my understanding that it 25 negatively affected poor people.</p>

<p style="text-align: center;">41</p> <p>1 Q. Yes. But I mean, I'm just talking about what a 2 poll tax is, not its effects, that what it -- what it 3 actually is, that you have to pay money to cast a 4 ballot. Is that what your understanding of the poll tax 5 is, in terms of the mechanics of how a poll tax works?</p> <p>6 A. It's hard for me to see the poll tax in 7 anything except a discriminatory light.</p> <p>8 Q. Right. And I understand the, sort of, 9 impermissible purpose that a lot of these barriers had 10 back when they were enacted. But I'm just asking in 11 terms of how a poll tax worked, when -- it is my 12 understanding, and if your understanding is different, 13 please let me know -- that it's, you pay money as an 14 exchange to cast a ballot. Is that your understanding 15 of what a poll tax is?</p> <p>16 A. I frankly don't remember whether you were able 17 to pay it once a year or for -- for each ballot. I 18 think it was a once-a-year thing, but I'm not sure. So 19 that -- that's what I would quibble with the -- the 20 statement that you made.</p> <p>21 Q. Okay. And does SB 14 require that -- 22 MS. ROBERTSON: Objection, vague. Go 23 ahead.</p> <p>24 Q. (By Mr. McKenzie) Well, I'll clarify. 25 Does SB 14 require you to pay a tax once a</p>	<p style="text-align: center;">43</p> <p>1 limited days, and -- and certainly some of the offices 2 don't have after hours.</p> <p>3 Q. (By Mr. McKenzie) Okay. So there are -- there 4 are various, I guess you could call them --</p> <p>5 A. Barriers.</p> <p>6 Q. Yeah, I wouldn't use that word.</p> <p>7 There are certain tasks you must fulfill 8 in order to get a free ID; is that correct?</p> <p>9 A. Yes.</p> <p>10 Q. And some of those tasks cost money, right?</p> <p>11 A. Yes.</p> <p>12 Q. But if you have a -- or time; is that correct?</p> <p>13 A. Yes.</p> <p>14 Q. But if you have a birth certificate, the cost 15 of obtaining a birth certificate is not one of the costs 16 of getting a free ID; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And are birth -- do birth certificates 19 have any other function other than obtaining a free ID, 20 election ID?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And so once somebody has a birth 23 certificate, they can use it for those other functions, 24 for those functions other than obtaining a free ID, if 25 they wanted to; is that correct?</p>
<p style="text-align: center;">42</p> <p>1 year to vote?</p> <p>2 A. The cost is implied.</p> <p>3 Q. I'm going to ask you to just focus on the -- on 4 the question with a yes or no, and you can elaborate 5 after the yes or no, if you want, to give more full 6 testimony. But does SB 14 require voters to pay a tax 7 once a year in order to vote?</p> <p>8 A. No.</p> <p>9 Q. Okay.</p> <p>10 A. However, the cost is implied.</p> <p>11 Q. Okay. And does SB 14 require people to pay 12 money in exchange to cast a ballot?</p> <p>13 A. No.</p> <p>14 Q. Okay. And going back to your statement, the 15 cost is implied. Once -- if you -- if you have a birth 16 certificate, is there any cost other than time --</p> <p>17 MR. MCKENZIE: Object --</p> <p>18 Q. -- to get --</p> <p>19 MS. ROBERTSON: Go ahead and finish.</p> <p>20 Q. (By Mr. McKenzie) -- to get a free ID?</p> <p>21 MS. ROBERTSON: Objection, calls for 22 speculation. Okay, now.</p> <p>23 A. There is still the issue of gas to get to DPS, 24 possibly taking off time to go at a time that the DPS 25 office would be open. Some places in Texas, there are</p>	<p style="text-align: center;">44</p> <p>1 A. Yes.</p> <p>2 Q. Okay. And once you have the birth certificate, 3 you would have that -- and you didn't lose it, you would 4 have it to renew your voter free ID, to the extent you 5 needed to; is that correct?</p> <p>6 MS. ROBERTSON: Objection, calls for 7 speculation. You can go ahead.</p> <p>8 A. I would suggest that most likely you would. 9 However, there are a lot of reasons why people don't 10 have birth certificates. Hurricanes. Domestic abuse, 11 women frequently lose their documents in those cases.</p> <p>12 Q. (By Mr. McKenzie) Right. But I'm saying, if we 13 set to one side the hypothetical situations where they 14 might lose their birth certificate or it might be taken 15 from them or it might be destroyed, if they have -- if 16 they've gotten it once and they keep it and none of 17 those things happen, they can renew free ID to the 18 extent they need to; is that correct?</p> <p>19 MS. ROBERTSON: Objection, calls for 20 speculation.</p> <p>21 Q. (By Mr. McKenzie) You may answer.</p> <p>22 A. As far as I know.</p> <p>23 Q. Okay. So does it take time to vote?</p> <p>24 A. Yes.</p> <p>25 Q. Does it take gas to get to the polling station</p>

<p style="text-align: center;">45</p> <p>1 to vote?</p> <p>2 A. Not necessarily, and with our system of 3 precincts, many people walk.</p> <p>4 Q. Okay. But assuming you don't live within 5 walking distance of your precinct, does it require gas?</p> <p>6 A. Some people catch a ride with neighbors. There 7 are groups in communities that offer rides to people to 8 the polls.</p> <p>9 Q. Understood. But other than those cases where 10 they get a ride or take public transportation or walk, 11 are there costs -- does it cost gas money if they drive 12 themselves to the poll?</p> <p>13 A. Yes. However, they may combine that trip to 14 the grocery store and other locations so that it's not 15 an additional cost.</p> <p>16 Q. Okay. Could somebody combine a trip to the DPS 17 to the grocery store -- with a grocery store trip?</p> <p>18 A. Possibly.</p> <p>19 Q. Are there -- is there any reason to believe 20 that they are any more likely to combine a trip to the 21 precinct with a trip to the grocery store than a trip to 22 the DPS with a trip to the grocery store?</p> <p>23 A. Yes.</p> <p>24 MS. ROBERTSON: Objection, calls for 25 speculation. Go ahead.</p>	<p style="text-align: center;">47</p> <p>1 Q. (By Mr. McKenzie) And what's the basis of that 2 contention?</p> <p>3 A. I have seen a map of where the DPS offices are.</p> <p>4 Q. And could you identify what a "lot closer" 5 means?</p> <p>6 A. We heard testimony, I believe, during the last 7 legislative session, that some of them were as much as 8 75 miles away.</p> <p>9 Q. And do you know how many people would be 10 affected by that?</p> <p>11 A. No.</p> <p>12 Q. Okay.</p> <p>13 MS. ROBERTSON: Are we at a good stopping 14 point?</p> <p>15 MR. MCKENZIE: Sure.</p> <p>16 MS. ROBERTSON: We've been going an hour</p> <p>17 MR. MCKENZIE: Sure. Yeah. That's fine.</p> <p>18 That's fine. We can take a break.</p> <p>19 MS. ROBERTSON: Great. Thank you.</p> <p>20 (Recess from 10:35 a.m. to 10:53 a.m.)</p> <p>21 Q. (By Mr. McKenzie) Okay. We were just talking 22 about the transportation costs associated with going to 23 the DPS as opposed to going to vote. Would you agree 24 with me that, unless you walk, there are transportation 25 costs to do both; is that correct?</p>
<p style="text-align: center;">46</p> <p>1 A. Yes. Grocery stores are likely to be closer 2 than DPS offices.</p> <p>3 Q. (By Mr. McKenzie) But it's true that there may 4 be some DPS offices that are closer to grocery stores 5 than precincts; is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So could people catch a ride with 8 friends to go to the DPS?</p> <p>9 MS. ROBERTSON: Objection, calls for 10 speculation.</p> <p>11 A. It seems unlikely, but possibly.</p> <p>12 Q. (By Mr. McKenzie) So other than walking, what 13 costs associated with going to the polls are more likely 14 to be -- well, it's going to come out too convoluted. 15 I'll strike that.</p> <p>16 How are the costs of going to the polls, 17 in terms of transportation costs, any greater than the 18 costs of going to a DPS station?</p> <p>19 A. I think you said that backwards. Say it again.</p> <p>20 Q. I did. How are the costs going to a DPS 21 station any greater than the cost of going to the polls?</p> <p>22 MS. ROBERTSON: Objection, calls for 23 speculation.</p> <p>24 A. In most cases, in the state of Texas, the DPS 25 is a lot further away than the polls.</p>	<p style="text-align: center;">48</p> <p>1 A.—Yes.</p> <p>2 Q. Okay. And we already established, though, but 3 I just want to make sure that it's clear on the record, 4 it also takes time to vote; is that correct?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now, do you believe that Senate Bill 14 7 will reduce the voter turnout?</p> <p>8 A. Yes, I do.</p> <p>9 Q. And what is the basis of your belief?</p> <p>10 A. It will create additional confusion amongst 11 voters.</p> <p>12 Q. Uh-huh.</p> <p>13 A. Students, who are not known to plan ahead, will 14 not have recognized that their college ID will not get 15 them in at the polls. Other people like that.</p> <p>16 Q. Does confusion inevitably lead to lower voter 17 turnout?</p> <p>18 A. Yes.</p> <p>19 Q. And what is the basis of that belief?</p> <p>20 A. Our offices around the state get calls from 21 voters that are confused. They tell us that they, you 22 know, are trying to clarify things, and if there's any 23 open issues, they often say, "Well, I just won't vote."</p> <p>24 Q. When you say "open issues," you mean confusion?</p> <p>25 A. I mean anything that they're still uneasy</p>

<p style="text-align: center;">49</p> <p>1 about.</p> <p>2 Q. But I guess my question is: Does being uneasy</p> <p>3 about something the same as confusion?</p> <p>4 A. Close.</p> <p>5 Q. But not exactly the same?</p> <p>6 A. Let me give you an example.</p> <p>7 Q. Okay.</p> <p>8 A. Okay. I'm a woman. I'm a Latino woman. My</p> <p>9 driver's license name does not exactly match my voter</p> <p>10 registration or my driver's license document. There is</p> <p>11 a potential that I will be turned away at the polls over</p> <p>12 that.</p> <p>13 Q. Uh-huh.</p> <p>14 A. As the League of Women Voters person at the</p> <p>15 office, I can't tell them for sure that they won't be.</p> <p>16 Q. Okay. So there are hypothetical situations --</p> <p>17 because we don't have any data, it's not been</p> <p>18 implemented -- but there are hypothetical situations</p> <p>19 where some people might not vote because of voter</p> <p>20 ID. Is it the case that some people might choose to</p> <p>21 vote because of voter ID?</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. Do you believe that if people believed that</p> <p>24 voter ID increases ballot integrity and that increases</p> <p>25 their confidence in the system, that this increased</p>	<p style="text-align: center;">51</p> <p>1 A. We -- sometimes we go into high schools to do</p> <p>2 voter registration. We show up at other places,</p> <p>3 including immigration events, to register voters. We</p> <p>4 talk to our legislators about issues. We write letters</p> <p>5 to our legislators, both -- some of them officially as</p> <p>6 league members and some of them as individual members.</p> <p>7 Q. Okay.</p> <p>8 A. That's what comes to mind at the moment.</p> <p>9 Q. Okay. And will your organization be able to</p> <p>10 perform these activities if Senate Bill 14 is</p> <p>11 precleared?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Will your organization have to expend</p> <p>14 additional resources performing these activities if</p> <p>15 Senate Bill 14 is precleared?</p> <p>16 A. We will want to.</p> <p>17 Q. But will you have to?</p> <p>18 A. Nobody compels us. Okay. We're a voluntary</p> <p>19 organization.</p> <p>20 Q. Do you believe that any of the registered</p> <p>21 voters that you will try to get to the polls on election</p> <p>22 day will choose not to go because they lack photo</p> <p>23 identification, even though SB 14 allows them to cast</p> <p>24 provisional ballots and obtain a photo ID later?</p> <p>25 MS. ROBERTSON: Objection, calls for</p>
<p style="text-align: center;">50</p> <p>1 confidence in the system could at the margins persuade</p> <p>2 some voters to vote who wouldn't vote before?</p> <p>3 MS. ROBERTSON: Objection, calls for</p> <p>4 speculation.</p> <p>5 A. I do not believe that.</p> <p>6 Q. (By Mr. McKenzie) You may not subjectively</p> <p>7 believe it, but I'm asking is it possible?</p> <p>8 MS. ROBERTSON: Same objection.</p> <p>9 A. It could be possible.</p> <p>10 Q. (By Mr. McKenzie) Okay. What does your</p> <p>11 organization do?</p> <p>12 A. We study issues and prepare materials about</p> <p>13 those issues. We have regular meetings where we discuss</p> <p>14 various topics. We have issue forums where we bring in</p> <p>15 experts. We have candidate forums, where we ask</p> <p>16 candidates to discuss their positions. We publish a</p> <p>17 voter's guide, which is a nonpartisan guide to issues.</p> <p>18 We identify a few issues and ask the</p> <p>19 candidates to reply. Their answers are accepted</p> <p>20 verbatim, except we do have a word limit, and if they</p> <p>21 send us something that's got too many words, we just</p> <p>22 chop it off. So that we don't influence what's said</p> <p>23 there. And then we publish those in communities around</p> <p>24 the state.</p> <p>25 Q. Is there anything else you guys do?</p>	<p style="text-align: center;">52</p> <p>1 speculation and assumes facts not in evidence.</p> <p>2 A. Ask me again.</p> <p>3 Q. (By Mr. McKenzie) Sure.</p> <p>4 MR. MCKENZIE: Would you mind reading back</p> <p>5 the question for me?</p> <p>6 (Record read back by the reporter.)</p> <p>7 MS. ROBERTSON: Same objection.</p> <p>8 A. Yes. I think some of them will choose not to</p> <p>9 go. The additional burden of going to the election</p> <p>10 office and getting the ID and doing all that within six</p> <p>11 days will be a problem.</p> <p>12 Q. (By Mr. McKenzie) And that is the basis of</p> <p>13 your belief that you think some people will find that</p> <p>14 barrier or that extra effort too much?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Does the League of Women Voters have a</p> <p>17 chapter in Georgia?</p> <p>18 A. Yes.</p> <p>19 Q. Do you know whether persons who work with the</p> <p>20 Georgia chapter have been hindered in their work by the</p> <p>21 photo ID now in effect in that state?</p> <p>22 MS. ROBERTSON: Objection, calls for</p> <p>23 speculation. It's also outside the scope of what she's</p> <p>24 been designated to testify about.</p> <p>25 MR. MCKENZIE: I'm sorry. I didn't mean</p>

<p style="text-align: center;">53</p> <p>1 to exceed the scope.</p> <p>2 MS. ROBERTSON: You can answer if you</p> <p>3 know.</p> <p>4 A. I don't have personal knowledge.</p> <p>5 Q. (By Mr. McKenzie) Okay. You may have answered</p> <p>6 this, but -- and I apologize if you have, but is the</p> <p>7 Texas League of Women Voters nonpartisan?</p> <p>8 A. Yes, it is.</p> <p>9 Q. Okay. Does the League of Women Voters ever</p> <p>10 help Anglo middle-class voters to register?</p> <p>11 A. Yes.</p> <p>12 Q. Without identifying specific members, do any of</p> <p>13 the members of the League of Women Voters of Texas lack</p> <p>14 photo ID that would be required by SB 14?</p> <p>15 A. I have no knowledge of that.</p> <p>16 Q. Okay. And so -- you may feel free to object on</p> <p>17 this question, but can you identify any members of the</p> <p>18 League of Women Voters of Texas who do not have one of</p> <p>19 the types of photo ID required by SB 14?</p> <p>20 A. I cannot.</p> <p>21 Q. Okay. Does the League of Women Voters of Texas</p> <p>22 represent anyone else in this litigation besides its</p> <p>23 members?</p> <p>24 A. We believe we represent the citizens of Texas.</p> <p>25 We have for over 90 years sought to improve government</p>	<p style="text-align: center;">55</p> <p>1 Q. How is voter ID a barrier to raising turnout?</p> <p>2 A. We -- from the Secretary of State's Office, we</p> <p>3 think there's at least 600,000 registered voters who may</p> <p>4 lack ID, and the expectation that all of those people</p> <p>5 would get ID and be able to vote in a November election</p> <p>6 is ludicrous.</p> <p>7 Q. Are you familiar with the experience of other</p> <p>8 states who have promoted voter ID?</p> <p>9 A. I am -- I have heard testimony from partisans</p> <p>10 who characterized the experience as great and</p> <p>11 wonderful. I did not believe it.</p> <p>12 Q. Okay. But I'm just asking a question about the</p> <p>13 scope of your personal knowledge. Are you familiar with</p> <p>14 it, other than that testimony?</p> <p>15 A. I obviously read a lot about what's going on in</p> <p>16 other states and the concerns.</p> <p>17 What was the question again?</p> <p>18 Q. Are you familiar with the experience of other</p> <p>19 states who have implemented voter ID laws?</p> <p>20 A. In general.</p> <p>21 Q. And do you know what the effect on turnout has</p> <p>22 been in those states?</p> <p>23 MS. ROBERTSON: Objection, vague.</p> <p>24 A. I heard testimony that turnout was better in</p> <p>25 the Obama election.</p>
<p style="text-align: center;">54</p> <p>1 in Texas and election law, and to encourage citizens to</p> <p>2 vote and work to improve our laws, and we believe we</p> <p>3 represent everybody.</p> <p>4 Q. Do you mean -- the term "represent" can mean</p> <p>5 different things. I'm talking about specifically in</p> <p>6 this litigation. Do you represent anyone in this</p> <p>7 litigation other than the members of your organization?</p> <p>8 MS. ROBERTSON: Objection, asked and</p> <p>9 answered.</p> <p>10 Q. (By Mr. McKenzie) You may answer.</p> <p>11 A. I believe that we represent the citizens of</p> <p>12 Texas.</p> <p>13 Q. And does your organization have authority from</p> <p>14 all the citizens of Texas to represent them in</p> <p>15 litigation?</p> <p>16 A. No.</p> <p>17 Q. Okay. How would preclearance of SB 14 harm the</p> <p>18 League of Women Voters of Texas?</p> <p>19 A. It is a barrier to our efforts to increase</p> <p>20 turnout in Texas. We have the worst turnout of any</p> <p>21 state. In 2010, Texas was worse than any other state in</p> <p>22 the general election in terms of turnout.</p> <p>23 Q. Uh-huh.</p> <p>24 A. And we have a big push on for increasing</p> <p>25 turnout.</p>	<p style="text-align: center;">56</p> <p>1 Q. (By Mr. McKenzie) Uh-huh.</p> <p>2 A. Which since that was the largest turnout ever,</p> <p>3 that testimony didn't mean much to me. That turnout got</p> <p>4 bigger that year because it quite naturally would have.</p> <p>5 Q. And where was it bigger, do you recall?</p> <p>6 A. I think it was bigger in Georgia, but I'm not</p> <p>7 sure.</p> <p>8 Q. And this is -- just so it's clear for the</p> <p>9 record, this is turnout after implementation of voter ID</p> <p>10 law; is that correct?</p> <p>11 A. I can't be sure.</p> <p>12 Q. Okay. So you -- if you can't be sure, then you</p> <p>13 don't necessarily know the experience of other states</p> <p>14 who've implemented voter ID as it pertains to turnout;</p> <p>15 is that correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Okay. So is -- is it your belief as to the</p> <p>18 disparity between -- or potential disparity between</p> <p>19 registered voters and those who hold IDs acceptable</p> <p>20 under SB 14, is it your testimony that that disparity is</p> <p>21 the main reason why you believe turnout would not rise</p> <p>22 after implementation of SB 14?</p> <p>23 MS. ROBERTSON: Objection,</p> <p>24 mischaracterizes prior testimony.</p> <p>25 You can answer.</p>

<p style="text-align: center;">65</p> <p>1 to another topic, back to the idea of having to pay, 2 potentially, a fee for a birth certificate if you don't 3 already own one and -- or not own, I should say, but 4 already in possession of one.</p> <p>5 And my question is: Do you know how much 6 it costs to get a birth certificate?</p> <p>7 A. In Texas, I believe it's \$23.</p> <p>8 Q. Okay.</p> <p>9 A. Now, recognize that what you might be looking 10 for is your citizenship documents. If you don't have 11 citizenship documents that have your picture on them, 12 that might cost as much as \$200.</p> <p>13 Q. Okay. Do you know if all naturalized citizens 14 must obtain at one point or another citizenship 15 documents with photos on them?</p> <p>16 A. I don't believe they do. I don't know that, 17 but the law specifically says what's acceptable is 18 something with a photo on it. So I have assumed that 19 there are some that do not.</p> <p>20 I tried to clarify that issue with 21 Secretary of State's Office, and it was during a time 22 when the chief elections person had left and they had a 23 new person and it just -- I never was able to clarify.</p> <p>24 Q. Okay. But going back --</p> <p>25 A. Because I wanted to know exactly what documents</p>	<p style="text-align: center;">67</p> <p>1 my hypothetical, if somebody obtains a birth 2 certificate, pays the fee, and then the fee they pay is 3 amortized over the life, the voting life of that voter, 4 is it your contention that cost is significant?</p> <p>5 MS. ROBERTSON: Objection, calls for 6 speculation.</p> <p>7 A. I don't know how to answer your question. I 8 reject the -- I reject the question as being irrelevant.</p> <p>9 Q. (By Mr. McKenzie) Well, unfortunately, you 10 still got to answer it. Unless you don't understand it, 11 in which case I can try to clarify it.</p> <p>12 A. I believe I understand the question.</p> <p>13 Q. Uh-huh.</p> <p>14 A. And yes, I believe it is still significant.</p> <p>15 Q. Why do you believe that?</p> <p>16 A. When you have a young mother who has 17 babysitting cost and food costs and is barely getting by 18 and is having to make choices between food and gas and 19 other things, to that person, any money that they have 20 to expend for something that is not actually required is 21 a big expense.</p> <p>22 Q. Right. But we established earlier there's some 23 transportation costs unless you walk, even as a time 24 cost, to get to the poll; is that right?</p> <p>25 MS. ROBERTSON: Objection, asked and</p>
<p style="text-align: center;">66</p> <p>1 would be accepted.</p> <p>2 Q. Okay.</p> <p>3 A. Never got an answer to that. Like the number, 4 no. Most government documents have a number.</p> <p>5 Q. Going back to the birth certificate. You 6 testified that you think it's \$23; is that correct, in 7 Texas?</p> <p>8 A. In Texas.</p> <p>9 Q. Okay.</p> <p>10 A. But every state has a different -- has the 11 right to charge whatever they want to charge.</p> <p>12 Q. Okay. And if a voter gets -- if a voter who 13 lacks a birth certificate obtains a certificate and pays 14 a fee for the certificate, and then the cost of that 15 certificate is amortized over the life of the voter's 16 eligible voting life, is it your contention that cost is 17 significant?</p> <p>18 MS. ROBERTSON: Objection, calls for 19 speculation.</p> <p>20 A. When the -- when the person who wishes to vote 21 needs that document today, the cost is not amortized 22 over time. It's today.</p> <p>23 Q. (By Mr. McKenzie) Right. I understand. But 24 I'm just saying under the -- and I understand my 25 question is a hypothetical. But under the conditions of</p>	<p style="text-align: center;">68</p> <p>1 answered.</p> <p>2 Q. (By Mr. McKenzie) You may answer.</p> <p>3 A. Yes.</p> <p>4 Q. And so for the hypothetical voter, you just 5 mentioned the one who's struggling, that voter would 6 have to pay those costs to vote in time or money to get 7 to the polls; is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. So is that expense significant?</p> <p>10 A. Yes.</p> <p>11 Q. Now we're going to move on to a new topic.</p> <p>12 Are you aware that Texas law prohibits 13 non-U.S. citizens from voting?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And are you aware that Texas law does 16 not require persons to present proof of citizenship when 17 they register to vote?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Are you aware that Texas issues special 20 driver's licenses to noncitizens that poll workers can 21 identify as belonging to an ineligible voter?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. If a noncitizen registers to vote, how 24 do you propose Texas should go about preventing that 25 noncitizen from voting?</p>

<p style="text-align: center;">69</p> <p>1 MS. ROBERTSON: Objection, calls for 2 speculation, and is beyond the scope of what she's been 3 designated to testify about in the 30(b)(6) notice. 4 Q. (By Mr. McKenzie) To the extent you have 5 knowledge. The 30(b)(6) just lists out what you're 6 expected to have knowledge about. So to the extent that 7 you have knowledge about other ways Texas can go about 8 preventing that noncitizen from voting, I'd ask you to 9 answer.</p> <p>10 MS. ROBERTSON: Calls for speculation. I 11 mean, I have the same objections. If you know, you may 12 answer.</p> <p>13 A. First of all, I don't believe that noncitizens 14 actually try to vote except in exceptionally rare 15 occasions. They try to avoid government offices or any 16 place that they might be caught doing anything that 17 might get them to be deported. I don't believe the 18 noncitizens are trying to vote.</p> <p>19 There are a few occasions when somebody 20 misunderstands and thinks -- I remember one particular 21 case, they thought they were trying to be a good 22 American by voting. They didn't realize they had no 23 right.</p> <p>24 What can Texas do to stop? Texas has 25 already taken steps to make it more difficult to get</p>	<p style="text-align: center;">71</p> <p>1 What's the basis of that belief? 2 A. There have been efforts on the part of the 3 Attorney General to identify cases like that, and very 4 few that have been found. There -- I've heard hours and 5 hours of testimony, and people will get up and say, "I 6 saw this red-headed woman twice," but when you say to 7 them, "Who did you report it to? Did they follow up? 8 Well, were you able to make" -- "bring charges against 9 that person?" It's always no. "No, I didn't tell 10 anybody," or whatever.</p> <p>11 Q. So based on the example you just provided, is 12 it possible that voter impersonation goes unreported?</p> <p>13 A. Certainly, it is possible.</p> <p>14 Q. Okay. And is it possible that voter 15 impersonation goes undetected?</p> <p>16 MS. ROBERTSON: Objection, calls for 17 speculation.</p> <p>18 A. It's possible.</p> <p>19 Q. (By Mr. McKenzie) So if you were doing an 20 investigation to identify voter fraud or voter 21 impersonation, and it -- in some cases it goes 22 unreported, and in some cases it goes undetected, would 23 that investigation uncover anything?</p> <p>24 MS. ROBERTSON: Objection, calls for 25 speculation.</p>
<p style="text-align: center;">70</p> <p>1 documents if you do not have -- if you're not a 2 citizen. We could require all citizens to carry 3 papers. There was a federal law to that effect, which 4 Texas has refused to implement.</p> <p>5 Q. (By Mr. McKenzie) Right. But this is -- this 6 is -- this question is directed specifically to a 7 noncitizen who registers to vote. So they're on the 8 voter rolls, and once they're on the voter rolls, and 9 they have a voter registration card, how do you propose 10 Texas go about preventing that noncitizen from voting?</p> <p>11 MS. ROBERTSON: Objection, calls for 12 speculation. It's also beyond the scope of the 13 30(b)(6), so it's not something that she can testify 14 about on behalf of the League. If you have personal 15 knowledge, you can answer.</p> <p>16 A. No personal knowledge.</p> <p>17 Q. (By Mr. McKenzie) So you don't know, then, how 18 Texas could prevent that noncitizen from voting?</p> <p>19 A. No.</p> <p>20 Q. Okay. Do you believe that the number of 21 incidents of voter impersonation in Texas is zero?</p> <p>22 A. I believe it's close to zero.</p> <p>23 Q. But do you believe it is zero?</p> <p>24 A. No.</p> <p>25 Q. Okay. Why do you believe it's close to zero?</p>	<p style="text-align: center;">72</p> <p>1 A. I don't know.</p> <p>2 Q. (By Mr. McKenzie) Would it uncover the 3 undetected and unreported cases?</p> <p>4 MS. ROBERTSON: Calls for speculation.</p> <p>5 A. I wouldn't think so.</p> <p>6 Q. (By Mr. McKenzie) Okay. Do you believe that 7 Texas should be required to tolerate voter fraud if it 8 occurs in only small amounts?</p> <p>9 A. I believe that one has to balance the issue of 10 absolute zero no fraud against disenfranchising 11 significant numbers of registered voters.</p> <p>12 Q. So is that -- if the result of that balance is 13 that some voters will not be able to vote but voter 14 fraud will become less likely, is that a tradeoff -- 15 does Texas have to accept a tradeoff that it maximized 16 potential voters and not reduced voter fraud?</p> <p>17 MS. ROBERTSON: Objection, compound, calls 18 for speculation.</p> <p>19 A. Can you uncompound it?</p> <p>20 MR. MCKENZIE: Read back the question for 21 me, and I'll try to uncompound it, to the extent I 22 believe --</p> <p>23 MS. ROBERTSON: We have a new verb. 24 (Requested portion read back by the court reporter.)</p>

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1 Q. (By Mr. McKenzie) I'll take the second part of
 2 that question.
 3 Does Texas have to maximize the tradeoff
 4 so that -- does it have to accept the tradeoff that it
 5 maximize the potential number of people who can vote at
 6 the expense of not addressing potential voter fraud?
 7 MS. ROBERTSON: Objection, calls for
 8 speculation.
 9 A. I think you have to look at the number of fraud
 10 cases where voter ID would have addressed it.
 11 Q. Uh-huh.
 12 A. Now there are fraud cases out there where voter
 13 ID will not address it.
 14 Q. Uh-huh.
 15 A. But if voter ID would actually address the
 16 fraud, you have to match that with the number of people
 17 who will be adversely affected by SB 14. You have to
 18 look at both of those. And my judgment is that the
 19 number of -- what evidence I have of the number of
 20 actual fraud cases that would be affected by this law,
 21 or would be stopped by this law, that the impact is much
 22 greater on Texas and Texans on those people who will be
 23 unable to vote or will have difficulties in voting.

24 Q. All right. And I guess my question is: Does
 25 Texas have to accept that judgment and build its law or

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1 Q. Uh-huh. How many cases would you say is the
 2 balance?
 3 MS. ROBERTSON: Objection, calls for
 4 speculation.
 5 A. If there were as many as 500 in a single
 6 election, I would think we needed to seriously look at
 7 it.
 8 Q. (By Mr. McKenzie) Okay.
 9 A. I mean, that's a statewide election.
 10 Q. A statewide election, okay.
 11 A. That is my personal opinion. That is not the
 12 League's opinion. We have not taken a position on that.
 13 Q. Okay.
 14 MR. MCKENZIE: It's 11:36.
 15 MS. ROBERTSON: I was going to ask you
 16 take a break at 11:45, but if this is a good stopping
 17 point, we could take it now.
 18 MR. MCKENZIE: Yeah, it's a good time.
 19 (Recess from 11:37 to 11:45)
 20 Q. (By Mr. McKenzie) Why did you decide to
 21 intervene in this lawsuit?
 22 A. The League determined to intervene because we
 23 feel very strongly that it does not -- that it's
 24 discriminatory, that particularly Latino and Latin
 25 American and Asian voters and poor people and older

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1 policy on that basis?
 2 MS. ROBERTSON: Objection, asked and
 3 answered.
 4 A. Do I have to answer it again?
 5 Q. (By Mr. McKenzie) Yes. I mean, she can
 6 object, but yes.
 7 A. I believe Texas should.
 8 Q. Okay. Do you believe there's any quantity of
 9 in-person voter fraud, either impersonation or voting by
 10 noncitizens, that could justify Senate Bill 14?
 11 MS. ROBERTSON: Objection, calls for
 12 speculation.
 13 A. Not in its current form. I think there could
 14 be a voter ID bill that could be written that would be
 15 justified, if there was a huge amount of fraud that
 16 would be addressed by that law, but we would be having
 17 student IDs accepted and, you know, a lot more freedom
 18 in what's an acceptable ID.
 19 Q. (By Mr. McKenzie) So but would it have to be a
 20 huge amount of fraud is what I believe your testimony
 21 is; is that correct?
 22 A. A significant amount of fraud.
 23 Q. Okay.
 24 A. Don't get me wrong, the League is against
 25 fraud. We would like to stop it.

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1 people and students will have more difficulty voting,
 2 and we think that's wrong.
 3 Q. Who are the groups that will have difficulty
 4 voting?
 5 A. Elderly, students, Latinos, African American,
 6 and Asians.
 7 Q. Okay. Do you believe the United States
 8 Department of Justice will not adequately represent the
 9 interests of those who oppose SB 14?
 10 MS. ROBERTSON: Objection, calls for legal
 11 conclusion, and is also the subject of an objection that
 12 we made to the 30(b)(6) notice in advance of the
 13 deposition.
 14 Q. (By Mr. McKenzie) And subject to those
 15 objections, you may answer the question.
 16 A. We're not making comment on the Justice
 17 Department's ability. What I would say, that we have
 18 League of Women Voters groups in 27 communities around
 19 Texas, and they are feet on the ground. Many of our
 20 members are actually election workers. They talk
 21 regularly to our election workers. They know what's
 22 happening. They receive calls and e-mails from people
 23 around Texas about -- about their concerns and questions
 24 about voting.
 25 Texas is a very large state. We have huge

<p style="text-align: center;">77</p> <p>1 areas that are rural. We have members that can 2 adequately represent those people. We also have three 3 of the biggest cities out of the top ten in the 4 country. So we're just such a big, varied state, and 5 the League has boots on the ground in those areas. We 6 feel like we know Texas.</p> <p>7 Q. Do you think that the League could apprise the 8 Department of Justice of that information without 9 intervening?</p> <p>10 MS. ROBERTSON: Objection, calls for speculation.</p> <p>12 A. We have written them three letters about our concerns, but we believe actually intervening is a better means of objecting to this law.</p> <p>15 Q. (By Mr. McKenzie) Is it because you have boots on the ground?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And it's your belief that communicating whatever institutional knowledge you may gather through the boots on the ground to DOJ would not be an adequate substitute for your participation in the lawsuit; is that correct?</p> <p>23 MS. ROBERTSON: Objection, calls for a legal conclusion.</p> <p>25 A. I believe that the League's personal</p>	<p style="text-align: center;">79</p> <p>1 that the court has already ruled that the League can 2 intervene.</p> <p>3 Q. (By Mr. McKenzie) And it's the same -- it's the 4 same drill; she can object, and after those objections, 5 you can answer unless instructed not to by your counsel.</p> <p>6 A. I am not aware of anything.</p> <p>7 Q. Okay. Do you intend to seek attorneys' fees from the State of Texas if the courts deny preclearance to Senate Bill 14?</p> <p>10 A. No.</p> <p>11 Q. Okay.</p> <p>12 A. That -- that doesn't say that the ACLU might not, but the League would not.</p> <p>14 Q. Okay. Is the League paying anything for representation in this case?</p> <p>16 A. No.</p> <p>17 Q. Okay. Did the -- I'm assuming the answer will be no, but I just want it to be clear for the record.</p> <p>19 Does the prospect of attorneys' fees in any way influence your decision to intervene in the lawsuit?</p> <p>21 A. Had there been fees, it would have been difficult for us to intervene.</p> <p>23 Q. I mean, collecting fees at the end of litigation.</p> <p>25 A. Oh.</p>
<p style="text-align: center;">78</p> <p>1 involvement in the suit can be helpful in making the case.</p> <p>3 Q. (By Mr. McKenzie) And it's the same boots on the ground -- the same boots-on-the-ground reasoning?</p> <p>5 A. Yes.</p> <p>6 Q. And why is the personal involvement better?</p> <p>7 A. I just believe that being personally involved in the conversation with the attorneys that are going to represent us and they're being personally involved in the suit opens up the possibility of getting additional information into the record.</p> <p>12 Q. Okay. But if that information were communicated to the Department of Justice, they could also get it into the record; is that correct?</p> <p>15 MS. ROBERTSON: Objection, calls for speculation.</p> <p>17 A. More voices saying even the same thing is better.</p> <p>19 Q. (By Mr. McKenzie) Okay. Has the United States Department of Justice done anything in this litigation to indicate that your interests are not adequately represented by the Attorney General of the United States?</p> <p>24 MS. ROBERTSON: Objection, calls for a legal conclusion. The same objection as to the fact</p>	<p style="text-align: center;">80</p> <p>1 Q. If the court order denies preclearance and orders Texas to pay fees?</p> <p>3 A. Oh, absolutely it had nothing whatsoever to do with the League's decision.</p> <p>5 Q. Okay. By intervening in this lawsuit, do you hope to deter other states in Section 5 jurisdiction from enacting photo ID requirements similar to SB 14?</p> <p>8 MS. ROBERTSON: Objection, calls for speculation. Also, she is representing the League of Women Voters of Texas and can't really testify as to other states.</p> <p>12 Q. (By Mr. McKenzie) Subject to those objections, you may answer.</p> <p>14 A. That was not a consideration.</p> <p>15 Q. Okay. The League of Women Voters of Texas intervened with other parties; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And those parties include the Texas Legislative Black Caucus and Justice Seekers as well as individual intervenors; is that right?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. Did -- and I'm just going to use shorthand so I don't have to say Texas League of Women Voters and Texas Legislative Black Caucus all the time. So I'm going to refer to Texas Legislative Black Caucus</p>

<p style="text-align: center;">89</p> <p>1 of Karen?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. I wanted to ask you about the last</p> <p>4 sentence in the first paragraph. Would you mind reading</p> <p>5 that sentence for me?</p> <p>6 A. "We fear the implementation of this law, as</p> <p>7 scheduled, may perpetuate existing disparities in voter</p> <p>8 participation between Anglos and minorities in Texas."</p> <p>9 Q. Okay. And it says "perpetrate," right?</p> <p>10 A. Perpetrate.</p> <p>11 Q. Do you think it meant perpetrate or perpetuate?</p> <p>12 MS. ROBERTSON: Objection, calls for</p> <p>13 speculation.</p> <p>14 A. Yeah, it's speculation. You saw that I read it</p> <p>15 the other way, so I think she may have meant that, the</p> <p>16 other word, because she goes on down here to give the</p> <p>17 statistics.</p> <p>18 Q. (By Mr. McKenzie) And Karen Nicholson signed</p> <p>19 this on behalf of --</p> <p>20 A. The League of Women Voters of Texas.</p> <p>21 Q. Right. That's correct, right?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And you're the corporate representative</p> <p>24 for this deposition for the League, right?</p> <p>25 A. Yes. I've been designated as the person to</p>	<p style="text-align: center;">91</p> <p>1 understanding?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And there's currently no photo voter ID</p> <p>4 requirement in Texas; is that right?</p> <p>5 A. That's correct. There is a requirement that</p> <p>6 there be some sort of ID, but not a photo ID.</p> <p>7 Q. Okay. And so if voting participation rates for</p> <p>8 members of different racial, ethnic, and language</p> <p>9 minority groups in Texas will continue at existing</p> <p>10 levels, at existing disparities, instead of get worse</p> <p>11 after implementation of SB 14x, how will SB 14 cause a</p> <p>12 disparate impact?</p> <p>13 MS. ROBERTSON: Objection, calls for a</p> <p>14 legal conclusion.</p> <p>15 A. I believe that it will get worse because these</p> <p>16 minority groups are, I believe, three times as likely to</p> <p>17 be below the poverty line, and the Brennan Center</p> <p>18 study -- my tongue won't say that -- in 2006 indicated</p> <p>19 that persons that had incomes lower than \$25,000 were</p> <p>20 twice as likely not to have these types of documents,</p> <p>21 so, so it just makes things worse.</p> <p>22 Q. (By Mr. McKenzie) But the letter says it will</p> <p>23 perpetuate -- perpetuate existing disparities, or</p> <p>24 perpetuate. We can't really pin down what's going on</p> <p>25 with that word and with the verb. But it's either</p>
<p style="text-align: center;">90</p> <p>1 answer these questions, as the most knowledgeable person</p> <p>2 to answer these questions.</p> <p>3 Q. Right. And so the only reason why I'm trying</p> <p>4 to establish that is to -- it's for the record.</p> <p>5 A. Sure.</p> <p>6 Q. For speculation objections, basically, so that</p> <p>7 I can say this is an official letter from the League of</p> <p>8 Women Voters, right? And that's -- and that's who</p> <p>9 you're testifying on behalf of, right?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. So when it says "perpetrate" here, you</p> <p>12 read that to mean to perpetrate or perpetuate on behalf</p> <p>13 of the organization?</p> <p>14 A. I would need a dictionary to be sure. Linda is</p> <p>15 an academic.</p> <p>16 Q. Okay.</p> <p>17 A. Okay? And she's usually right, but I would</p> <p>18 have used the other word. That's all I can say.</p> <p>19 Q. Okay. But the question I want to ask about</p> <p>20 this is: This letter indicates there's already</p> <p>21 disparate voting participation by different racial,</p> <p>22 ethnic, and language minority groups in Texas; is that</p> <p>23 right?</p> <p>24 A. Yes.</p> <p>25 Q. And is that consistent with the League's</p>	<p style="text-align: center;">92</p> <p>1 perpetuate or perpetrate. But the existing disparities</p> <p>2 is clear, correct?</p> <p>3 A. Existing disparities will get worse is the</p> <p>4 point of this letter. That part I'm very sure of.</p> <p>5 Q. But it doesn't say that, does it?</p> <p>6 MS. ROBERTSON: Objection.</p> <p>7 Q. (By Mr. McKenzie) In this sentence. Now, it</p> <p>8 may say it somewhere else, if you can find it in there.</p> <p>9 A. Like I say, I need a dictionary to be sure what</p> <p>10 that actually means.</p> <p>11 Q. Well, also, if you -- I don't want to cut you</p> <p>12 short, so if you want to say something in relation to</p> <p>13 that question, you are welcome to. Okay.</p> <p>14 It also says at the bottom here of the</p> <p>15 third paragraph, the last sentence, "The added</p> <p>16 requirements of SB 14 make it more difficult to raise</p> <p>17 voter registration and turnout of underrepresented</p> <p>18 groups to the levels of groups with the highest voter</p> <p>19 participation rates."</p> <p>20 So it's -- the letter speaks in terms of</p> <p>21 making it more difficult to raise voter registration and</p> <p>22 turnout rates; is that correct?</p> <p>23 A. That's one of the points made here. We</p> <p>24 figured, in 2010, that if we just raise Texas turnout to</p> <p>25 what it was across the country, there would be one</p>

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1 million more voters. That's how bad it was in Texas.
 2 And so our emphasis has been trying to
 3 raise voter participation. But this letter is saying
 4 that this law is going to make it even more difficult
 5 for us to have any impact on turnout, because it's going
 6 to be -- because minorities primarily are going to be
 7 less likely to vote than they already are.

8 Q. But -- well, as least as far as the two
 9 sentences I've pointed out, the letter doesn't say it's
 10 going to reduce voter turnout; is that correct?

11 MS. ROBERTSON: Objection,
 12 mischaracterizes her testimony and the letter speaks for
 13 itself.

14 A. This might be a good example of why our
 15 intervening is better than letters to DOJ.

16 Q. (By Mr. McKenzie) But I'm just speaking
 17 confined to this particular letter that you sent to the
 18 DOJ. It doesn't speak anything -- you can review it
 19 more if you want. But at least as to those two
 20 sentences, it doesn't speak about reducing turnout or
 21 reducing voter registration; is that correct?

22 MS. ROBERTSON: Objection,
 23 mischaracterizes the exhibit.

24 A. And I wouldn't agree with that statement.

25 Q. (By Mr. McKenzie) And why wouldn't you agree?

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1 it, and this one didn't.

2 Q. And I honestly -- I was going to ask questions,
 3 but I cut out those letters for time purposes.

4 How does the cost associated with getting
 5 a free ID differ materially from the usual cost of
 6 voting?

7 MS. ROBERTSON: Objection, asked and
 8 answered.

9 A. It is an additional burden on time and expense,
 10 and it is something new to learn about, to find out that
 11 you've got to do it, in a timely manner, and to get it
 12 done.

13 Q. (By Mr. McKenzie) But how do those things
 14 differ from what you usually have to do to vote?

15 MS. ROBERTSON: Objection, vague and asked
 16 and answered.

17 A. What you usually have to do to vote is receive
 18 your voter registration card in the mail, go to the
 19 polls and vote. And with this, you've got to understand
 20 the new law, you've got to figure out whether you've got
 21 the documents, you've got to -- if you don't have the
 22 documents, you've got to go to the DPS office and
 23 potentially supply documents you may or may not already
 24 have.

25 Q. (By Mr. McKenzie) But in order to vote, you

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1 A. Because I don't think that's what it says. I
 2 think it's -- I think it's talking -- I know the intent,
 3 and I believe the words themselves, if you read the
 4 whole thing, indicate that what we're trying to say is
 5 that the bill itself will reduce voter turnout.

6 Q. So is it your testimony that the letter is
 7 completely silent on the issue of whether or not SB 14
 8 will reduce voter turnout?

9 A. No.

10 MS. ROBERTSON: Objection,
 11 mischaracterizes her testimony.

12 A. No, that's not my testimony.

13 Q. (By Mr. McKenzie) What is your testimony about
 14 this letter?

15 MS. ROBERTSON: Objection, asked and
 16 answered.

17 Q. (By Mr. McKenzie) Have you had a chance to read
 18 the whole letter?

19 A. Yeah, but it's very dense. (Laughing).

20 Q. Are you able to find anything that talks about
 21 reducing voter turnout or voter registration?

22 A. Not specifically.

23 Q. Okay. That's fine. We can go on to the next
 24 exhibit.

25 A. Probably one of the other letters would cover

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1 have to present documents; is that correct?

2 A. Absolutely. We have a perfectly good
 3 requirement for identification when you vote as it
 4 existed before SB 14.

5 Q. And it -- it requires some knowledge of where
 6 your precinct is to; vote, is that correct?

7 A. Your voter registration card tells you what
 8 your precinct is.

9 Q. But you have to receive your voter registration
 10 card and actually read it and maintain it and take it to
 11 the polls; is that correct?

12 A. Yes. Or you can look it up on the web to find
 13 out you're supposed to vote.

14 Q. And you have to know the day of the election;
 15 is that correct?

16 A. Yes.

17 Q. Okay. So you have to know some basic
 18 information about the election in order to vote; is that
 19 correct?

20 A. Right.

21 Q. And you need to know some basic information
 22 about SB 14 in order to get a free ID; is that correct?

23 A. You would have to know something about SB 14 to
 24 know that there was an issue over the way we've been
 25 voting in Texas for years and years and years. So you

<p style="text-align: center;">97</p> <p>1 would have to recognize that things have changed, and 2 then look into whether you had the required documents, 3 and if you didn't, go to the trouble of getting them.</p> <p>4 Q. Is acquiring that knowledge different in 5 character than acquiring the regular knowledge you need 6 to vote?</p> <p>7 MS. ROBERTSON: Objection, vague, calls 8 for speculation.</p> <p>9 A. I would see it as different in that it is new 10 information that people don't -- aren't looking for, 11 because they've been voting. Many people have been 12 voting in the same precinct for 50 years.</p> <p>13 Q. (By Mr. McKenzie) Uh-huh.</p> <p>14 A. Some less than that. But they often -- they 15 just do it as a routine kind of thing. They don't look 16 to see if anything has changed, because generally, 17 nothing has changed that affects them.</p> <p>18 Q. But other than being new, is the information 19 you need to comply with SB 14 different in character 20 than the information you need to vote in the first 21 place?</p> <p>22 MS. ROBERTSON: Objection, calls for 23 speculation, vague.</p> <p>24 A. It's more complex.</p> <p>25 Q. (By Mr. McKenzie) How so?</p>	<p style="text-align: center;">99</p> <p>1 registration card comes in the mail, I think it's every 2 two years, and if you don't move, it's going to come in 3 the mail.</p> <p>4 Q. Uh-huh.</p> <p>5 A. And it's all you need.</p> <p>6 Q. But you'd have to know to carry it with you to 7 the poll; is that correct?</p> <p>8 MS. ROBERTSON: Objection, that 9 mischaracterizes the law.</p> <p>10 Q. (By Mr. McKenzie) Carry it, or other acceptable 11 forms of ID.</p> <p>12 A. Right. And a lot of people have a driver's 13 license in which they carry all the time, and so if they 14 get to the polls without the voter registration card, 15 they whip that out, and under this law, that will be 16 acceptable.</p> <p>17 Q. Yes.</p> <p>18 A. But a lot of people, particularly elderly 19 people, as you quit driving, you don't need a driver's 20 license anymore, so you're not going to pay for one, you 21 may find that you need an official voter -- not voter -- 22 a photo ID that's not a driver's license that you pay 23 for from DPS, and some elderly people get those. But in 24 general, once you stop driving, you don't have a 25 driver's license and that. And always before, that</p>
<p style="text-align: center;">98</p> <p>1 A. Because there's a very limited number of IDs 2 that are acceptable.</p> <p>3 Q. So how does the limited number of IDs make it 4 more complex?</p> <p>5 A. Well, you have to figure out whether you've got 6 one of those, and we anticipate that quite a number of 7 people will not. For instance, students. Students 8 would expect that whatever ID they already have would 9 work. It's a photo ID. Your bus driver would think "I 10 have a photo ID from the City of Austin." There are all 11 kinds of photo IDs out there that even in previous laws 12 that have been discussed in Texas, some of them have 13 been acceptable; government IDs have been and student 14 IDs. But none of those are going to be acceptable. So, 15 really understanding what is acceptable and what's not 16 is more complex.</p> <p>17 Q. It's more complex than knowing what you need to 18 know now?</p> <p>19 A. Yes.</p> <p>20 Q. Do voters who are voting now need to know that 21 they need to present a voter registration card?</p> <p>22 A. They need to know that they need that or -- or 23 a driver's license. There are a few other things -- if 24 they don't have one of those two things, there are a few 25 other things that are acceptable. But the voter</p>	<p style="text-align: center;">100</p> <p>1 piece of paper that you got in the mail that said it was 2 a voter registration card was all you needed. If you're 3 an elderly person, there's a real good chance you'll 4 show at the polls with just that.</p> <p>5 Q. But I'm trying to get to the issue of 6 complexity. And it sounds like one potential feature of 7 complexity is that it's a new requirement right; is that 8 correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And that would deal with the 11 hypothetical you presented of an elderly voter who is 12 used to going to the polls with their voter ID card, 13 with his or her voter ID card, and then they don't know 14 about SB 14, and they show up with just their voter ID 15 card or voter registration card, and they wouldn't be 16 allowed to vote; is that correct?</p> <p>17 A. That's correct.</p> <p>18 Q. So other than that hypothetical and the newness 19 of the law, how is knowing the acceptable IDs under SB 20 14 more complex than knowing the acceptable IDs that are 21 acceptable now?</p> <p>22 MS. ROBERTSON: Objection, asked and 23 answered, and calls for speculation.</p> <p>24 A. It's not intuitive, is one thing, in terms of 25 the number of documents that are acceptable. I mean, if</p>

<p style="text-align: center;">101</p> <p>1 any -- if you asked somebody on the street what 2 documents do you think they would accept, they would -- 3 people would say a government ID before they would say a 4 gun carry permit.</p> <p>5 Q. (By Mr. McKenzie) But a gun carry permit is a 6 form -- is a government ID; is that correct?</p> <p>7 A. It is, but --</p> <p>8 Q. And so is a state driver's license.</p> <p>9 MS. ROBERTSON: You guys are talking over 10 each other, so what's the question? What's the 11 question?</p> <p>12 Q. (By Mr. McKenzie) A concealed handgun license 13 is a government ID, right?</p> <p>14 A. Yes, it is.</p> <p>15 Q. Okay.</p> <p>16 A. But people would think that any government ID 17 would be acceptable, including the bus driver's ID from 18 the City of Austin.</p> <p>19 Q. What is the basis of that belief?</p> <p>20 A. It's a government ID. People --</p> <p>21 Q. But why do you think people would expect that 22 their --</p> <p>23 A. I'm sorry -- there's a --</p> <p>24 MS. ROBERTSON: There's a gnat.</p> <p>25 THE WITNESS: There's a gnat that seems to</p>	<p style="text-align: center;">103</p> <p>1 discriminatory purpose? 2 A. The League has not taken a position on that. 3 Q. I think in your pleading, you may not have read 4 the pleading, because your lawyers may have handled 5 that, which is natural, but -- 6 A. I read -- 7 MS. ROBERTSON: Let him finish the 8 question. 9 Q. (By Mr. McKenzie) But I think in your pleading, 10 you have denied Texas's allegation that SB 14 was not 11 enacted with a discriminatory purpose. So under 12 Section 5, we have to prove the negative, that the law 13 was not enacted with a discriminatory purpose, and I 14 want to ask why you denied that allegation. 15 MS. ROBERTSON: Objection, calls for a 16 legal conclusion. 17 A. To my knowledge, the League has not taken a 18 position on whether there was a discriminatory 19 purpose. I have an opinion, but the League has not 20 taken a position. I did read the pleadings. I missed 21 that, if you think it says something different than I 22 thought. 23 Q. (By Mr. McKenzie) It doesn't expressly say that 24 it was enacted with a discriminatory purpose. It denies 25 Texas's allegation that it was enacted without a</p>
<p style="text-align: center;">102</p> <p>1 want to get into my mouth or nose. 2 Q. (By Mr. McKenzie) What -- okay. Sorry. Pardon 3 the interruption of the gnat. 4 What makes you believe that voters would 5 expect any government ID to be acceptable? 6 A. Well, a government -- first of all, they 7 would think of a photo ID, and some people would think 8 that their employment ID might be acceptable, because it 9 was a photo ID, said who you were and gave your address 10 maybe. So I think some people would think that that 11 would be okay. But next to that, I think they would 12 think that a government ID, as a photo ID officially 13 given out by the government, as opposed to this narrow 14 list of specific government IDs. 15 Q. Do you know anybody who has that belief about 16 SB 14? 17 A. I have certainly talked to people who were 18 shocked by the actual list. 19 Q. That doesn't precisely answer the question. 20 Do you know anybody who believes, based on 21 SB 14, that they can use any government ID if that law 22 is implemented? 23 A. Can I name specific person? No. 24 Q. Okay. We're just going to go real quick. 25 Do you think SB 14 was enacted with a</p>	<p style="text-align: center;">104</p> <p>1 discriminatory purpose. So I was curious if the League 2 had any facts that would support that allegation -- or 3 that denial? 4 A. We have not taken a position on that. 5 Q. So is that a no, that the League doesn't have 6 any facts? 7 A. We don't have any facts we wish to present. 8 Q. But do you have any facts? 9 A. I have personal opinions. 10 Q. Yeah, I'm talking about the League, not your 11 personal opinions. 12 A. I know. And so, no, we don't have any facts 13 then. 14 Q. Okay. I'd like to introduce Exhibit 4, I 15 think. Is that correct? Okay. Exhibit 4. 16 (Privett Exhibit 4 marked for 17 identification.) 18 Q. (By Mr. McKenzie) And have you seen this 19 document before? 20 A. Yes. 21 Q. And can you identify what that document is? 22 A. Linda Krefting got this request from DOJ for 23 information, and she is making sure that the president 24 and I and Julie is also in -- kind of in the chain of 25 command to deal with this. And the Julie Oliver is a</p>

<p style="text-align: center;">105</p> <p>1 staff person. So she's just making sure we all know 2 what's going on.</p> <p>3 Q. And so the record is clear, this is an e-mail, 4 right?</p> <p>5 A. Yes,</p> <p>6 Q. And the sender of the e-mail is who again?</p> <p>7 A. Linda Krefting.</p> <p>8 Q. And who are the recipients?</p> <p>9 A. Karen Nicholson was the president at the time 10 of this note. I was Advocacy Vice President at the time 11 of the note. Julie Lowenberg is coordinator for the 12 section that election law comes under.</p> <p>13 Q. Uh-huh.</p> <p>14 A. We have so many issues that we have some 15 coordinators, and she was the coordinator for that, and 16 Julie Oliver is a staff member.</p> <p>17 Q. Okay. And so these are all people who are in 18 some sort of leadership or official position with the 19 Texas League of Women Voters? Is that fair?</p> <p>20 A. That's right.</p> <p>21 MS. ROBERTSON: Objection, compound.</p> <p>22 Q. (By Mr. McKenzie) Okay.</p> <p>23 A. Sorry.</p> <p>24 Q. No, it's fine. You were fine to answer that 25 question.</p>	<p style="text-align: center;">107</p> <p>1 MR. MCKENZIE: Okay. I'm assuming we'll 2 just have to power through, right?</p> <p>3 MS. ROBERTSON: How much longer?</p> <p>4 MR. MCKENZIE: 30 minutes maybe.</p> <p>5 MS. ROBERTSON: Do you need to take a 6 break and stretch your legs?</p> <p>7 THE WITNESS: I think I'm okay.</p> <p>8 MR. MCKENZIE: Okay.</p> <p>9 Q. (By Mr. McKenzie) Okay. Do you contend that 10 SB 14 will have the effect of denying or abridging 11 African American Texans' his right to vote?</p> <p>12 A. Say that again, please.</p> <p>13 Q. The problem is that Texas ends in -- and the 14 plural ends in an S.</p> <p>15 So do you contend that SB 14 will have the 16 effect of denying or abridging African American Texans' 17 right to vote?</p> <p>18 MS. ROBERTSON: Objection, calls for a 19 legal conclusion. You can answer.</p> <p>20 A. Yes.</p> <p>21 Q. (By Mr. McKenzie) And what is the basis for 22 that contention?</p> <p>23 A. Not all African Americans have the documents 24 that are required under SB 14, and African Americans in 25 Texas are more likely to be below the poverty line, and</p>
<p style="text-align: center;">106</p> <p>1 It would be enough to say that they are 2 all somehow officially associated with the Texas League 3 of Women Voters; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And I want to direct your attention to 6 the fifth paragraph.</p> <p>7 A. Yes.</p> <p>8 Q. And if you wouldn't mind reading it for me. 9 It's really short.</p> <p>10 A. "She asked if we had any evidence of 11 discriminatory intent in the legislation. I said not 12 really. I indicated our concern was discriminatory effects. 13 Certainly, that's the argument we were making."</p> <p>14 Q. And Linda is the president of the Texas League 15 of Women Voters; is that correct?</p> <p>16 A. She is today. At the time of this letter, she 17 was the issue chair --</p> <p>18 Q. Okay.</p> <p>19 A. -- for election law.</p> <p>20 Q. And does that paragraph state the position of 21 the Texas League of Women Voters?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And then I'm on the final piece of my 24 outline. Are we on time?</p> <p>25 MS. ROBERTSON: It's 12:34.</p>	<p style="text-align: center;">108</p> <p>1 there's an even increased number of expectations that 2 African Americans below the poverty line will not have 3 those documents, making it more -- having a bigger 4 affect on minorities than on Anglos.</p> <p>5 Q. And do you know how many African American 6 Texans lack a photo ID acceptable under SB 14?</p> <p>7 A. No, we don't know exactly how many don't have 8 any of these documents. We can speculate based on 9 things we do know. The Secretary of State's Office has 10 offered a number of about 600,000 that didn't provide 11 information that indicated they had a document. And 12 there have been studies, the Brennan Center has done a 13 number of studies about this sort thing, and that 14 information is on our website and in the material that 15 we provided you, and I'm not real good at remembering 16 numbers.</p> <p>17 Q. Sure. Okay. And can you identify any African 18 American Texans who lack the photo IDs required by 19 SB 14?</p> <p>20 A. No.</p> <p>21 Q. Okay. Has the League conducted any studies on 22 the effect of SB 14 on African American voters?</p> <p>23 A. No.</p> <p>24 Q. Okay. And have you conducted any surveys on 25 that effect on African American voters?</p>

<p style="text-align: center;">109</p> <p>1 A. No.</p> <p>2 Q. Okay. Do you contend that SB 14 will have the 3 effect of denying or abridging Latino Texans' right to 4 vote?</p> <p>5 MS. ROBERTSON: Objection, calls for a 6 legal conclusion.</p> <p>7 A. Yes.</p> <p>8 Q. (By Mr. McKenzie) And what is the basis for 9 that contention?</p> <p>10 A. The same as the basis was for African 11 Americans.</p> <p>12 Q. Okay. And do you know how many Latino Texans 13 lack the IDs that are required under SB 14?</p> <p>14 A. No, I do not.</p> <p>15 Q. Can you identify any Latino voters who don't 16 have these IDs?</p> <p>17 A. No.</p> <p>18 Q. Okay. And do you contend that Asian American 19 voters will be adversely affected by SB 14 at a higher 20 rate than other racial, ethnic, or language minority 21 groups?</p> <p>22 MS. ROBERTSON: Objection, calls for a 23 legal conclusion.</p> <p>24 A. The studies I have seen indicate that Asian 25 Americans would be affected. I am not sure whether it</p>	<p style="text-align: center;">111</p> <p>1 questions about African American voters and Latino 2 voters?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And have you produced all those studies 5 to us?</p> <p>6 A. They are publicly available. We have talked 7 about them in the -- in the documents to DOJ.</p> <p>8 Q. Okay. Are you familiar with the polls 9 regarding support for voter ID legislation?</p> <p>10 A. Yes, I am.</p> <p>11 Q. And are you aware of polls showing that the 12 majority of Texans support a photographic ID requirement 13 to vote regardless of political affiliation?</p> <p>14 A. Yes, I am.</p> <p>15 Q. And are you aware of polls showing that the 16 majority of Texans support a photographic ID requirement 17 to vote regardless of race?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Are you aware of polls showing that the 20 majority of Texans support a photographic ID requirement 21 to vote regardless of language minority status?</p> <p>22 A. I don't remember a poll that specifically 23 addressed the language minority issue.</p> <p>24 Q. Okay.</p> <p>25 A. That was probably true of the previous</p>
<p style="text-align: center;">110</p> <p>1 would be more highly affected than Blacks and Latinos. 2 There's some statistics in one of those documents that 3 we sent to DOJ that addresses that. I don't remember 4 the numbers.</p> <p>5 Q. (By Mr. McKenzie) Okay. So you don't know the 6 number, then, of voters --</p> <p>7 A. No.</p> <p>8 Q. -- registered Asian voters in Texas who lack 9 the photo IDs required under SB 14; is that right?</p> <p>10 A. No.</p> <p>11 Q. Okay. And do you know any Asian American 12 voters in Texas who lack the required photo IDs under 13 SB 14?</p> <p>14 A. No.</p> <p>15 Q. And I may have asked this. I apologize, but I 16 haven't been checking off my outline properly. But what 17 is basis of your belief that African Americans will be 18 adversely affected?</p> <p>19 A. It's this issue of statistics that show us that 20 there are more minorities, including African Americans, 21 that live below the poverty line and that persons below 22 the poverty line are less likely to have the required 23 documents that we're talking about for SB 14.</p> <p>24 Q. And are those the same studies and surveys you 25 have cited in response to the question about -- the</p>	<p style="text-align: center;">112</p> <p>1 question, too. I don't remember a poll that 2 particularly addressed minorities at all in the poll. 3 It may have done, but I don't recall that.</p> <p>4 Q. Okay. That's good to know.</p> <p>5 And this is a threshold, but you don't 6 ever have to speculate. If you don't know the answer, 7 you can just say "I don't know." When I offer a 8 hypothetical question, as long as I produce sufficient 9 facts to answer it, then I'd ask that you answer it. 10 But as far as questions where I ask about a past fact or 11 an existing fact and you just don't know the answer, you 12 can just say, "I don't know."</p> <p>13 Do you believe that elderly voters are 14 more likely than the average voter to lack a form of 15 identification required by SB 14?</p> <p>16 A. Yes.</p> <p>17 Q. Do you believe that indigent voters are more 18 likely than the average voter to lack a form of 19 identification required by SB 14?</p> <p>20 A. Yes.</p> <p>21 Q. Do you believe that disabled voters are more 22 likely than the average voter to lack a form of ID 23 required by SB 14?</p> <p>24 A. Yes.</p> <p>25 Q. Do you believe that rural voters are more</p>